RUGBY

MUNICIPAL CODE

1967

UPDATED THROUGH ORDINANCE 394
AND REPRINTED FEB 2015

A Codification of the General Ordinances
of the City of Rugby, North Dakota

Comprising on Initial Publication
All General Ordinances Up To and Including
Ordinance No. 151
Passed March, 1967

Codified, Indexed and Published by
LexisNexis Municipal Codes
Matthew Bender & Company, Inc.
701 East Water Street
Charlottesville, VA 22902
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PREFACE

The Rugby Municipal Code, originally published by Book Publishing Company in 1967, has been kept current by regular supplementation.

During original codification, the ordinances were compiled, edited and indexed by the editorial staff of Book Publishing Company under the direction of Anthony S. Earl, city attorney.

The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the title, chapter, and section. Thus, Section 18.12.040 is Section .040, located in Chapter 18.12 of Title 18. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. This legislative history is complemented by an ordinance disposition table, following the text of the code, listing by number all ordinances, their subjects, and where they appear in the codification.

Footnotes referring to applicable statutory provisions are located throughout the text. A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

This supplement brings the code up to date through Ordinance 341, passed July 2, 2001.

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TITLE 1

GENERAL PROVISIONS

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Chapter 1.01

CODE ADOPTION

Sections:

1.01.010 Title--Citation--Reference. This code shall be known as the Rugby Municipal Code and it shall be sufficient to refer to said code as the Rugby Municipal Code in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall also be sufficient to designate any ordinance adding to, amending, correcting, or repealing all or any part or portion thereof as an addition to, amendment to, correction of, or repeal of the Rugby Municipal Code. Further reference may be had to the titles, chapters, sections and subsections of the Rugby Municipal Code and such reference shall apply to that numbered title, chapter, section or subsection as it appears in this code. (Ord. 157 (part), 1967).

1.01.020 Reference applies to amendments. Whenever a reference is made to this code as the Rugby Municipal Code or to any portion thereof, or to any ordinance of the city of Rugby, the reference shall apply to all, amendments, corrections and additions heretofore, now, or hereafter made. (Ord. 157 (part), 1967).

1.01.030 Codification authority. This code consists of all of the regulatory and penal ordinances and certain of the administrative ordinances of the city of Rugby, North Dakota, codified pursuant to the laws of the state of North Dakota. (Ord. 157 (part), 1967).

1.01.040 Definitions and construction. Unless the context otherwise requires, the following words and phrases where used in the ordinances of Rugby, North Dakota shall have the meaning and construction given in this section:

(b) “City” means the city of Rugby.
(c) “City council” means the city council of the city of Rugby.
(d) “County” means the county of Pierce.
(e) “Person” means any natural, person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust, or their manager, lessee, agent, servant, officer, or employee or any of them.
(f) “State” means the state of North Dakota
(g) “Oath” includes affirmation.
(h) Gender. The masculine gender includes the feminine and neuter.
(i) Number. The singular number includes the plural, and the plural, the singular.
(j) Tenses. The present tense includes the past and future tenses, and the future tense includes the present tense.
(k) Shall, May. “Shall” is mandatory, “may” is permissive.
(1) Title of Office. The use at the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission at the city of Rugby. (Ord. 157 (part), 1967)
1.01.050  Title, chapter and section headings. Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (Ord, 157 (part), 1967).

1.01.060  Reference to specific ordinances. The provisions of this code shall not in any manner affect deposits or other matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within this code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Ord. 157 (part), 1967).

1.01.070  Effect of code on past actions and obligations. Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of the ordinance codified herein, nor be construed as a waiver of any license, fee, or penalty at the effective date of the ordinance codified herein, due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 157 (part), 1967).

1.01.080  Repeal. All general ordinances of the city of Rugby not included in this code or excluded from the operation and effect of this section are hereby repealed, including but not limited to the following numbered ordinances: Ordinance No. 151 and ordinances passed subsequently are not hereby repealed. (Ord. 157 (part), 1967).

1.01.090  Exclusions: Every special ordinance of this city governing the following subject matter, whether contained in whole or in part within this code is excluded from the operation and effect of Section 1.01.080 and is not affected by the repeal provisions hereof: Annexations; franchises; naming roads, streets and public places; acquisition or disposal of public property; vacation of streets, alleys, or public ways; acceptance of any gift, devise, license or other benefit; provided that the foregoing enumeration of exceptions or exclusions shall not be deemed to be exclusive or exhaustive, it being the intent and purpose to exclude from repeal any and all ordinances not of a general nature. (Ord. 157 (part), 1967).

1.01.100  Effective date. This code shall become effective on the date Ordinance 157, adopting this code as the Rugby Municipal Code, shall become effective. (Ord. 157 (part), 1967).

1.01.110  Penalty for violation. In case no other specific penalty is prescribed for the violation of any section or provision of any ordinance of the city, or any section or portion thereof, any person, firm or corporation found guilty of violating the same shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not to exceed thirty days, or both such fine and imprisonment in the discretion of the court; the court to have power to suspend the sentence and to revoke the suspension thereof.

1.01.120  Failure to pay fine, costs. Upon the rendition of judgment against any defendant for violation of any ordinance of this city, the municipal judge or county justice or judge of a county court of increased jurisdiction sitting in his stead shall make an order and enter the same upon his docket, that if the defendant shall neglect or refuse to satisfy such judgment and costs of suit, he shall be confined in the city jail or other place of confinement provided for that purpose, one day for each five dollars of such judgment and costs, and during such confinement he may be required to labor upon the streets or do other work for the city under the supervision and direction of the chief of police. Execution shall be issued immediately upon the rendition of judgment. (Ord. 157 (part), 1967).

1.01.130  Severability. If any section, subsection, sentence, clause, phrase, portion, or part of this code is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this code. The city council hereby
declares that it would have adopted this code and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts, or portions be declared invalid or unconstitutional. (Ord. 157 (part), 1967).
Chapter 1.04
CITY LIMITS

Sections:

1.04.010 Territorial extent of the city.

1.04.010 Territorial extent of the city. All that portion of Pierce County, North Dakota, included within the limits and boundaries hereinafter described and set out, shall be a city by the name of "City of Rugby," and the people now inhabiting and who shall hereafter inhabit within the limits and boundaries hereinafter and set out, and hereafter established by adding thereto regularly laid out and approved additions, shall be a municipal corporation by the name of the city of Rugby; which limits and boundaries are described as follows:

The incorporated territory as described with reference to the United States Government Survey thereof as follows:

The Southeast Quarter (SE ¼) of Section Thirty-one (31) and the Southwest Quarter (SW ¼) of Section Thirty-two (32) Township One hundred Fifty-seven (157) North, of Range Seventy-two (72); and Lot one (1) and the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section Two (2) and Lots Two (2), Three (3), Four (4), Five (5), and Eight (8) and the South Half (S ½) of the North east Quarter (NE ¼) of Section One (1) of Township One Hundred Fifty-six (156) North, of Range Seventy-three (73) West, containing seven hundred and eighteen (718) acres according to the government survey thereof.

The boundary lines being as follows: Beginning at the quarter (¼) corner of the south side of Section Thirty-two (32) of Township One Hundred Fifty-seven (157) North, of Range Seventy-two (72) West of the Fifth (5) Principal Meridian situated on the Fourteenth (14th) Standard Parallel, which corner is marked by a granite stone plainly marked; thence north two thousand six hundred and forty (2,640) feet to the intersection of the quarter (¼) line; thence west with the said quarter (¼) line five thousand two hundred and eighty-one and three tenths (5,281.3) feet to its intersection with the quarter (¼) line running north and south through Section Thirty-one (31); thence south with the said quarter ¼ line a distance of two thousand six hundred and forty (2,640) feet to its intersection with the Fourteenth (14th) Standard Parallel; thence east with the said Standard Parallel seventy-eight and five tenths (78.5) feet to its intersection with the quarter (¼) quarter (¼) line running south through the North west Quarter (NW ¼) of Section Two (2), Township One Hundred Fifty-six (156) North, of Range Seventy-three (73) West; thence south with the said quarter (¼) quarter (¼) line three thousand two hundred and fifty-nine and seventy four hundredths (3,259.74) feet to its intersection with the quarter (¼) line; thence east with the quarter (¼) line five thousand two hundred eighty-one and three tenths (5,281,3) feet to its intersection with the quarter (¼) quarter (¼) line; thence north with the said quarter (¼) quarter (¼) line three thousand two hundred sixty and sixty hundredths (3,260,60) feet to its intersection with the Fourteenth (14th) Standard Parallel; thence west with the said Standard Parallel seventy-eight and five tenths (78.5) feet to the quarter (¼) corner, the place of beginning. Plus all that area lying within the following described area: Beginning at the NW corner of the SW ¼ Section One (1), 156-73; thence South 0' 10" 30" East along the West line of said Section One (1) 1328.0 ft.; thence North 89° 39' 54" East, 777.76 feet; thence 50' 10" 30" East, 305.4 ft.; thence North 89° 39' 54" East, 809.05 feet; thence North 0' 10" 30" West, 577.4 feet; thence North 89° 39' 54" East, 1015.45 feet; thence North 0° 09' 18" West, 1056.0 feet to the NE Corner SW ¼, Section One (1), 156-73. (1942 Rev. Ords. §A-101).
Chapter 1.08

WARDS

Sections:

1.08.005  Polling place. All elections within the City of Rugby shall take place and all voters shall vote at one central polling place which will be the “Rugby Armory” unless an alternate polling place is designated from time to time by the City Auditor of the City of Rugby. In the event of a change in polling place from the “Rugby Armory” the auditor shall announce to the electorate at the earliest possible convenience the site of the election and polling place. (Ord. 311 (part), 1991).

1.08.010  Fourth ward boundaries changed. The boundaries of the fourth ward are hereby changed so that the fourth ward shall be comprised of and that portion of the City of Rugby lying and situated east of a line described as the middle of Highway 3 running north from the south boundary of the City of Rugby thence to the intersection of the midline of 3rd Avenue thence north to the intersection of the midline of 6th Street thence east to the intersection of the midline of 5th Avenue thence north to the intersection of the midline of 5th Street thence east to the east boundary of the City of Rugby. (Ord. 311 (part), 1991: Ord. 264 (part), 1981: Ord. 76 §1, 1958)

1.08.020  Second ward boundaries changed. The boundaries of the second ward are hereby changed so that the second ward shall be comprised of and include that part of the City of Rugby lying West and North of a line described as the middle of Main Avenue running South from the North boundary of the City of Rugby to the intersection of the midline of 6th Street to the city boundary. The Second Ward, Second Precinct shall begin at the intersection of the midline of Main Avenue and 3rd Street thence east to the intersection of the midline of 4th Avenue thence south to the intersection of the midline of 4th Street thence west to the intersection of the midline of Main Avenue thence north to the intersection of 3rd Street. (Ord. 311 (part), 1991: Ord. 268 (part), 1982: Ord. 264 (part), 1981: Ord. 76 §2, 1958)

1.08.030  Third ward boundaries changed. The boundaries of the third ward of the city are hereby changed so that the third ward shall be comprised and include that part of the City of Rugby lying South and East of a line described as the middle of 6th Street running east from the east boundary of the City of Rugby thence to the intersection of the midline of Main Avenue thence north to the intersection of the midline of 4th Street thence west to the intersection of the midline of 5th Avenue thence south to the intersection of the midline of 6th Street thence west to the intersection of the midline of 3rd Avenue thence south to the intersection of the midline of 10th Street thence west to the intersection of the midline of Highway #3 thence south the city boundary. (Ord. 311 (part), 1991: Ord. 264 (part), 1981: Ord. 76 §3, 1958)

1.08.040  First ward boundaries changed. The boundaries of the first ward of the city are hereby changed so that the first ward shall be comprised of and include that part of the City of Rugby lying East and North of a line described as the middle of Main Avenue running south from the north boundary of the City of Rugby to the intersection of the midline of 3rd Street thence east to the intersection of the midline of 7th Avenue thence North to the intersection of the midline of 2nd Street thence east to city boundary. The First Ward, Second Precinct shall begin at the intersection of the east boundary of the City of Rugby and the midline of 2nd Street thence west to the intersection of the midline of 7th Avenue thence south to the intersection of the midline of 3rd Street thence east to the intersection of the midline of 4th Avenue thence south to the intersection of the midline of 4th Street.
thence east to the intersection of the midline of 5th Avenue thence south to the intersection of the midline of 5th Street thence east to the city boundary. (Ord. 311 (part), 1991: Ord. 268 (part), 1982: Ord. 264 (part), 1981: Ord. 76 §4, 1958)

1.08.050 Election of councilmen. The city council shall be composed of eight aldermen, to be elected by wards and two aldermen shall be elected from each ward. The aldermen representing the newly created fourth ward in the city, shall be selected pursuant to the laws in such case made and provided. (Ord. 76 §4, 1958)
Chapter 1.09

ENFORCEMENT

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1.09.010  Rendering judgment on conviction – Committed in lieu of fine. In all trials for offenses under the ordinances of the city, if the defendant is found guilty, the municipal judge shall render judgment accordingly. It shall be a part of the judgment that the defendant stand committed until such judgment is complied with, in no case to exceed one day for every one dollar and twenty-five cents of fine and costs assessed against the defendant. (1942 Rev. Ord. §1-201).

1.09.020  Authorization of hard labor. If, in the opinion of the court, such persons so sentenced is capable of performing manual labor, such court shall sentence such person to confinement at hard labor 1942 Rev. Ords. §1-202)

1.09.030  Chief of police to direct hard labor--Credit. Any person so imprisoned to hard labor, as provided in Section 1.09.020, shall be required to work for the city at such hard labor as his or her strength will permit, under the direction of the chief of police, not to exceed ten hours each working day; and to such work the person so employed shall be allowed, exclusive of his board, one dollar and twenty-five cents for each days work to be applied on account of such fine and cost, (1942 Rev, Ords. §1-203)

1.09.040  Refusal to work in contempt of court. 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 of such fine and cost for the day or days that such person refuses to perform manual labor in accordance with the sentence of the court. (1942 Rev, Ords., §1-204)

1.09.050  Mayor may release prisoners. The mayor may release any person imprisoned for violation of any city ordinance, and shall report such release, with the cause thereof, to the city council at its first session thereafter. (1942 Rev. Ords. §1-205).

1.09.060  Punishment of violators upon conviction. Any person convicted before the municipal judge of the city of an offense against any of the ordinances of the city, shall be punished as may be regulated by such ordinance, except as provided in Section 1.09.070. (1942 Rev. Ords. §1-206)

1.09.070  Deferring or suspending sentence - Commitment. Such municipal judge may, in his discretion, upon the conviction of any person of any offense against any of the ordinances of the city, then and there impose a sentence of imprisonment as may be regulated by such ordinances, but defer imposition of sentence or suspend the sentence imposed on such person for a period of not to exceed ninety 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 the city; 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, and may suspend the payment of a fine during good behavior. (1942 Rev. Ords. §1-207).

1.09.080 Repeal of Sections 1.09.060 and 1.09.070 not to be effected by implication. Sections 1.09.060 and 1.09.070 shall not be repealed by implication and shall be made effective where applicable to existing ordinances and to all ordinances hereafter enacted unless, by the express terms thereof, this ordinance shall be repealed in whole or in part; and, in that event, only as to such part as may hereafter be expressly repealed. (1942 Rev. Ords. §1-208)

1.09.090 Liberal construction of Sections 1.09.060 and 1.09.070. Sections 1.09.060 and 1.09.070 are enacted in furtherance of the ends of justice, and to enable the municipal judge in proper cases to further the ends of justice.

Sections 109.060 and 1.09.070 shall be given a liberal construction by all courts. Any person who accepts the benefits or indulgences extended to him pursuant to the provisions hereof, shall be deemed to have waived all objections to the validity hereof. All objections not filed with the municipal judge at the time of the proceedings taken to which objections might be entered, shall be deemed waived. (1942 Rev. Ords. §1-209)
TITLE 2
ADMINISTRATION AND PERSONNEL

Chapters:

2.04  City Council
2.08  Elective Officials
2.12  Appointive Officers
2.16  City Auditor
2.20  City Attorney
2.24  City Assessor
2.28  Street Commissioner
2.32  Police
2.36  Planning Commission
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Chapter 2.04

CITY COUNCIL

1. For state law declaring the governing body of a city to be the city council, see N.D.C.C. §40-08-01.

Sections:

2.04.010 Regular meetings.
2.04.020 Special meetings.
2.04.030 Selection of president and vice president.
2.04.040 Duties of the president and vice president.
2.04.050 Rules of city council.

2.04.010 Regular meetings. The council shall meet at the council chamber in the city hall on the first Monday in each month at a time to be appointed by the council, and at any time to which such meeting is adjourned and/or on such alternate dates as the council specifies, and also at such other times as a special meeting may be called according to law. No vote of the city council shall be reconsidered or rescinded at a special meeting unless there is present at such special meeting a number of members as were present when such vote was taken. (Ord. 145 (part), 1967: 1942 Rev. Ords. §2-101).

* For state law in regard to the holding of regular and special meetings, see N.D.C.C. §40-08-10.

2.04.020 Special meetings. Special meetings shall be called by the mayor whenever he shall deem it necessary for the transaction of the business of the city, or whenever requested by two members of the council in writing, such request to be filed with the city auditor. Special meetings shall be held at the council chamber, at eight p.m., of the date designated in such call. Such notice shall state the date of meeting and the purpose for which such meeting is called, and no business shall be transacted thereat except as is stated in such notice. The city auditor or mayor, or committee of the council, calling such meeting, shall give notice thereof by telephone, or personally, or by service of notice as of a summons, upon all members, including the city attorney, who have not signed the call for such meeting. (1942 Rev. Ords. §2-102).

2.04.030 Selection of president and vice president. At the first regular meeting after the biennial election in each even numbered year, the city council shall proceed to elect from its members a president and a vice president who shall hold their respective offices until their successors are elected and have duly qualified. (1942 Rev. Ords. §2-103)

* For state law relating to the election of a council president and vice president, see N.D.C.C. §40-08-11.

2.04.040 Duties of the president and vice president. It shall be the duty of the president, in the absence or disability of the mayor, to act as presiding officer of the council, and he shall, during the absence of the mayor from the city or his disability, be acting mayor and possess all the powers of the mayor. In the absence or disability of the mayor and president of the council, the vice president shall perform the duties of mayor and president of the council; provided, that all warrants on the treasury signed by the president or vice president shall be signed in his official capacity as acting mayor. (1942 Rev. Ords. §2-104)

2.04.050 Rules of city council. (a) At the time appointed for any meeting of the council, the mayor, and in his absence, the president thereof who is in attendance shall take the chair, call the members to order, and cause the roll to be called.
(b) A majority of the aldermen elect shall constitute a quorum for the transaction of business.
(c) Order of business:
   (1) The reading of the minutes of the preceding regular and all other meetings, unless dispensed with, and their correction and acceptance;
(2) Presentation of petitions which shall be in writing, and bills against the city which shall be itemized and sworn to:

(3) Reports of officers, standing committees and special committees;

(4) Appointment and confirmation of officers;

(5) Unfinished business of the preceding meeting;

(6) Presenting ordinances, which must be writing;

(7) New business.

(d) The presiding officer shall preserve order and decorum and decide all questions of order subject to an appeal to the council.

(e) All questions of order or priority of business shall be decided without debate.

(f) All committees shall be appointed by the mayor or presiding officer, unless otherwise directed by the council; in the latter case they shall be appointed by ballot.

(g) The name of a member offering a resolution or motion shall be entered with it upon the journal.

(h) Committees may report orally or in writing to the city council upon all matters referred to them, except matters involving the expenditure of city funds, which shall be in writing.

(i) The standing committees of the council shall be as follows:

   (1) Finance, claims and accounts.

   (2) Building and fire department.

   (3) Ordinance.

   (4) Sewer, water and electric lights.

   (5) Streets, alleys and sidewalks.

   (6) Board of health.

   (7) Ways and means.

(j) The above committees shall be appointed by the mayor or president of the council annually.

The first named of each shall be chairman; but no member shall be chairman of more than one committee at the same time, unless there are more committees than aldermen.

(k) The annual meeting of the city council shall be held on the third Tuesday in April for the purpose of organization and settling the accounts of city officers for the preceding fiscal year.

(1) The chief of police or some policeman designated by him shall attend all meetings of the city council and shall execute their orders and shall keep the council room in order. He shall, when required by the mayor or any two councilmen, deliver notices of special meetings to the members of the council or leave the same at their usual residence. (1942 Rev. Ords. §2-105)
Chapter 2.08

ELECTIVE OFFICIALS

Sections:

2.08.010  Officers elected.
2.08.020  Terms of office.
2.08.030  Mayor’s term of office.
2.08.040  Duties of the mayor.
2.08.050  Compensation of the mayor.
2.08.060  Terms of office for aldermen.
2.08.070  Duties of aldermen.
2.08.080  Compensation of aldermen.
2.08.090  Duties of the treasurer.
2.08.100  Compensation of treasurer.
2.08.110  Treasurer may appoint deputy.
2.08.120  Bonds of municipal officials.
2.08.130  Salaries of officials.

2.08.010  Officers elected.¹ There shall be elected in the city, the following officers: A mayor, two aldermen from each ward, and a municipal judge. (1942 Rev. Ords. §3-101) (Ord. 391, 2014)

1 For state law relating to the election of aldermen, see N.D.C.C. &§40-08-04 and 40-08-06. For state law as to officers to be elected in council cities, see N.D.C.C. §40-14-01.

2.08.020  Terms of office.² The elective officers of the city, shall hold their respective offices for such time as may be prescribed by state law, and until their successors are elected and qualified. (1942 Rev. Ords. §3-102).

2 For state law as to terms of office, see N.D.C.C. §40-14-02.

2.08.030  Mayor’s term of office.³ The chief executive officer of the city is the mayor, who shall be a qualified elector within the city, and who shall hold his office for four years and until his successor is elected and qualified. (1942 Rev. Ords. §2-103)

3 For state law designating the mayor chief executive officer and prescribing a four year term, see N.D.C.C. §40-08-14.

2.08.040  Duties of the mayor.* The mayor shall, when present, be presiding officer of the council. He shall have charge of the police force and appoint from time to time such number of policemen as the council shall deem necessary. He shall see that the officers of the city perform their respective duties; that the ordinances of the city are observed and enforced; he shall sign all contracts made by the city except in cases where that duty is by law or ordinance imposed upon some other city officer.

He shall perform such other duties as may be imposed by law or ordinance. (1942 Rev. Ords. §3-104).

* For state law relating to the duties of the mayor, see N.D.C.C. §§40-08-18--40-08-28.

2.08.050  Compensation of the mayor.** The mayor shall receive a salary not to exceed $18,000 per year and as approved by the majority of the city council, with the approved salary to be payable in monthly or quarterly installments on the first day of each month, with said salary to commence on July 1 of the year the mayor takes office or the first month after the mayor takes office if appointed. The salary approved by the council for the mayor shall only be reviewable during the budget process of even numbered years with any changes in salary taking effect on January 1 of the following year. (Ord. 330, 1996: Ord. 173 (part), 1970: 1942 Rev. Ords. §3-105) (Ord. 391, 2014)

**For state law as to compensation of the mayor, see N.D.C.C.§40-08-15.
2.08.060  Terms of office for aldermen.  Aldermen shall hold their office for four years and until their successors are elected and qualified; provided, however, that the aldermen elected shall alternate in their respective terms of office by electing one-half the number of aldermen in any one election except that whenever two aldermen in any ward of the city are to be elected in any one election, then of the aldermen elected the one receiving the lower number of votes in the ward in the election shall serve for only two years. (1942 Rev. of Ords. §3-106).

2.08.070  Duties of aldermen.  Each alderman shall perform the duties provided by law and the city ordinances. He shall attend all regular and special meetings of the city council, and of his particular committee, and of the board of equalization, unless absent from the city, or excused by the mayor, and shall be paid only for meetings actually attended during the whole session thereof. (1942 Rev. §3-107)

2.08.080  Compensation of aldermen. Each alderman shall receive a salary not to exceed $12,000 per year, as approved by the majority of the city council, with the approved salary to be payable in monthly or quarterly installments on the first day of each month, with said salary to commence on July 1 of the year the alderman takes office or the first month after the alderman takes office if appointed. The salary approved by the council for the alderman shall only be reviewable during the budget process of even numbered years with any changes in salary taking effect on January 1 of the following year.. (Ord. 329, 1996: Ord. 172 (part), 1970: 1942 Rev. Ords. §3-108) (Ord. 391, 2014)

***For state law as to the compensation of aldermen see N.D.C.C. §40-08-07.

2.08.100  Compensation of treasurer. The city treasurer shall receive a salary to be fixed by resolution of the city council from time to time. (Ord. 57 (part), 1955: 1942 Rev. Ords. §3-110).

2  For state law relating to the compensation and bond of city treasurer, see N.D.C.C. §§40-13-02, 40-13-04 and 40-17-01.

2.08.110  Treasurer may appoint deputy.  The city treasurer is hereby authorized and empowered to appoint one or more deputies to assist in the work of his office.  The city treasurer shall appoint such deputy city treasurers as he shall deem necessary, with or without bond, for whose acts the city treasurer shall be liable to the city on his official bond. Such deputies shall be appointed from time to time as the necessity thereof arises, and shall receive such salary or compensation as may be fixed by the city treasurer, but such deputies shall receive no salary from the city. (1942 Rev. Ords. §3-111).

2.08.120  Bonds of municipal officials. The treasurer, auditor, clerk, municipal judge and assessor of the city and such other officers as the city council may direct, before entering upon the discharge of the duties of their respective offices, shall execute and deliver to the city auditor their separate bonds payable to the municipality, condition for the honest and faithful performance of their official duties. Such bonds shall be in an amount fixed by the governing body of the municipality at a regular meeting in April of each year; in an amount at least equal to twenty-five percent of the average amount of money that has been subject to the treasurer’s control during the preceding fiscal year as determined by the total of the daily balances of the treasurer for the calendar year divided by the figure three hundred or the sum of two hundred fifty thousand dollars whichever is least. All official bonds shall be approved by the mayor of the municipality and filed in the office of the city auditor. Such bonds shall conform to the provisions of law applicable to the bonds of state officers and employees except that no personal surety shall be accepted on any bond. The city shall not pay the premium on any bond except a bond written in the state bonding fund or a bond procured to replace a bond canceled by the state bonding fund. The city council may at any time require new and additional bonds of any officer. (Ord. 140 (part), 1967: 1942 Rev. Ords. §3-117).

3  For state law relating to the bonds of municipal officials, see N.D.C.C.. §40-13-02.

2.08.130  Salaries of officials. Except where otherwise provided, any officer or employee of the city shall receive the salary, fees, or other expenses fixed by ordinance or resolution of the city council,
and after having been once fixed, the same shall not be diminished to take effect during the term for which the officer or employee was elected or appointed. (Ord. 140 (part, 1967).

4 For state law relating to salaries of officers or employees, see N.D.C.C. §40-13-04.
Chapter 2.12

APPOINTEE OFFICERS

Sections:

2.12.010 Officers appointed.
2.12.020 Confirmation of appointments.
2.12.030 Terms of office of appointive officers.
2.12.050 Filling a vacancy.
2.12.060 Oath and bond of appointive officers.
2.12.070 Duties of appointive officers.
2.12.080 Compensation of appointive officers.
2.12.090 Officer to turn over money, property and records to successor.

2.12.010 Officers appointed. At the first regular session of the city council, after the election of the mayor, or within a reasonable time thereafter, the mayor may appoint, subject to the approval of the council, a city auditor, city assessor, city attorney, chief of police, city street commissioner, city janitor, city poundmaster, and such other officers as may be provided for by ordinance; and at the first meeting of the city council in each odd numbered year, a health officer, whose terms of office shall commence at once upon their qualification. (1942 Rev. Ords. §3-201).

5. For state law as to appointive officers in council cities, see N.D.C.C. §40-14-04.

2.12.020 Confirmation of appointments. The appointments shall be submitted in writing and approved by a majority ballot of all the aldermen-elect before the same shall become operative. When the council have acted on such appointments they shall immediately notify the mayor of the result. The mayor can a second time submit the name of any appointee disapproved by the council, but if such appointee is again rejected by the council he cannot be appointed a third time by the mayor. If the appointees named by the mayor are rejected by the council he shall immediately make other appointments to be acted upon by the council in like manner, and shall so proceed until all of the offices are filled. (1942 Rev. Ords. §3-202).

2.12.030 Terms of office of appointive officers. The terms or office of all officers provided for in this chapter shall commence with the municipal year, and unless sooner removed they shall hold office until the expiration of the term of office of the mayor appointing them, and until their successors are appointed and qualified. (1942 Rev. Ords. §3-203).

6. For state law as to terms of appointive officers, see N.D.C.C. §40-14-05.

2.12.040 Removal of appointive officers. Subject to the provisions of law in that regard, the mayor may remove any officer appointed by him. When any officer is removed by the mayor he shall submit his reason therefore in writing to the council. (1942 Rev. Ords. §3-204).

7. For state law as to removal of appointive officers, see N.D.C.C. §40-08-19.

2.12.050 Filling a vacancy. If any office provided for in this chapter shall become vacant on account of death, removal, or other cause, the same shall be filled in like manner as an original appointment. (1942 Rev. Ords. §3-205).

2.12.060 Oath and bond of appointive officers. All appointive officers shall take the oath and give the bond provided for by law and resolution. The council may, by a majority vote, increase the amount of any such bond, and within twenty days after any such officer shall receive written notice of such increase, he shall execute a new bond in such increased sum and submit the same to the council for their approval, and failure on the part of any such officer to execute such bond as herein required, without reasonable excuse or justification, shall be sufficient cause to justify his removal from office.
Editors Note: Section 3-206, 1942 Revised Ordinances, originally provided for the furnishing of bonds in an amount to be fixed by ordinance. Ordinance 56 impliedly amended Section 3-206 by declaring that the amount of bonds be fixed by resolution.

8. For state law requiring bonds and oaths of municipal officials, see N.D.C.C. §§40-13-02 and 40-13-03.

2.12.070 Duties of appointive officers. The officers mentioned in this chapter shall perform the duties required by law and such other duties as the council shall by ordinance require. (1942 Rev. Ords. §3-207).

9. For state law as to duties of officers, see N.D.C.C. §40-13-11.

2.12.080 Compensation of appointive officers. The salaries of all appointive officers, except such as otherwise provided by law, shall be in such sums and amounts as may be fixed by resolution of the city council from time to time. (Ord. 56 (part), 1955: 1942 Rev. Ords. §3-208).

2.12.090 Officer to turn over money, property and records to successor. At the expiration of his term of office, each officer of the city shall turn over to his successor all books, accounts, records, money, and property of whatever kind and description in his possession as such officer, and shall be entitled to a receipt thereof, if desired. (1942 Rev. Ords. §3-209).
Chapter 2.16

CITY AUDITOR

1. For state law as to the duties of the city auditor generally, see N.D.C.C. §§40-16-01--40-I6-I0.

Sections:

2.16.010 Duties.
2.16.020 May appoint deputy.

2.16.010 Duties. The city auditor shall perform all duties of his office required by law or city ordinance; he shall attend the meetings of the council and keep a full and correct record of the proceedings had thereat; he shall issue the calls for all special meetings of the council when required by the mayor or any two councilmen; he shall keep a book called the “Ordinance Book” in which he shall record at length all ordinances passed by the city council; he shall, at the time the salary of any city officer becomes due, as provided by ordinance, draw his order on the city treasurer for the same and sign and deliver such order to such officer; he shall keep a record of all licenses issued by him, to whom issued, for what purpose, the amount of the license fee, and the location of the business licensed. He shall make a settlement with the city treasurer at the end of every month, and shall receive from him all warrants, interest coupons, bonds, or other evidence of indebtedness which have been redeemed or paid by such city treasurer, giving his receipt therefore. (1942 Rev Ords. §3-301).

2.16.020 May appoint deputy. The city auditor is hereby authorized and empowered to appoint one or more deputies to assist in the work of his office. The city auditor shall appoint such deputy city auditors as he shall deem necessary, with or without bond, for whose acts the city auditor shall be liable to the city on his official bond. Such deputies shall be appointed from time to time as the necessity thereof arises, and shall receive such salary or compensation as may be fixed by the city auditor, but such deputies shall receive no salary from the city. (1942 Rev. Ords. §3-302).
Chapter 2.20

CITY ATTORNEY

2. For state law authorizing the appointment of a city attorney, see N.D.C.C. §40-14-04.

Sections:

2.20.010 Duties. The city attorney shall draft and supervise the execution of all written contracts entered into by the city; he shall advise city officers in matters relating to their official duties; he shall conduct, in behalf of the city, all suits and legal proceedings to which the city is a party, and shall take such steps herein as seem to him to be for the best interests of the city and for the promotion of justice; he shall perform such other legal services as may from time to time be required by the mayor, council, or any committee thereof. (1942 Rev. Ords. §3-401).
Chapter 2.24

CITY ASSESSOR 3

3. For state law as to city assessor generally, see N,D,C.C, §§40-19-01--40-19-03.

Sections

2.24.010 Duties

2.24.010 Duties. It shall be the duty of the city assessor to attend the meetings of the council, if so required by the mayor or council, and to attend all meetings of the board of equalization. He shall make a report of his proceedings, when so required by the mayor or city council, and in general perform all the duties of his office prescribed by law or city ordinance. (1942 Rev Ords. §3-501).
Chapter 2.28

STREET COMMISSIONER

Sections:

2.28.010 Office created. There is hereby created the office of city street commissioner for the city. (1942 Rev. Ords. §3-601)

2.28.020 Duties. Under the direction of the committee on streets and alleys he shall see that needful and necessary repairs are made upon all streets and alleys within the city. Before entering upon any such improvements he shall submit to the council a report and estimate of the work he deems necessary, and at the next regular meeting of the council held thereafter, such report shall be considered and passed upon. Provided, that when, from any cause, any street or alley becomes suddenly unfit and dangerous for public travel the street commissioner may proceed to repair the same at once, and without making the report herein provided for, and if he deems it necessary, he shall prevent the use of such street or alley by the public until such time as the same is repaired.

He shall see that the streets and alleys are kept clean from rubbish and all sorts of noxious refuse matter and that the ordinances of the city in regard to street’s and alleys are enforced. (1942 Rev. Ords. §3-602).

2.28.030 Report of city property to council. On the first Monday in May of each year the street commissioner shall make a report to the city council of all property in his hands or under his control belonging to the city. (1942 Rev. Ords. §3-603).

2.28.040 When chief of police to perform duties. If a street commissioner is not appointed the chief of police shall perform the duties of the office. (1942 Rev. Ords. §3-604)
Chapter 2.32

POLICE

Sections:

2.32.010   Duties.  It shall be the duty of the chief of police and all members of the police force to suppress riots and breaches of the peace, and to arrest all persons engaged in any such offense, or any indictable offense, or any offense against the ordinances of the city and take such persons before the proper tribunal for trial.

    They shall restrain for a reasonable length of time persons found drunk or who shall attempt or threaten to commit a breach of the peace or violate a city ordinance and take them before the proper tribunal for trial; and they shall, if necessary, commit such persons to the county or city jail overnight of the Sabbath or until they can be brought before the proper tribunal for trial.

    They shall execute all process issued by the mayor, council, or any magistrate or court of the city; and perform such other duties as are prescribed by law or ordinance. (1942 Rev. Ords. §3-701)

2.32.020   Special police salary.  All special policemen shall receive such salary as is determined by the city council. (1942 Rev. Ords. §3-704)
Chapter 2.36

PLANNING COMMISSION*

Sections:

2.36.010 Created. There is created pursuant to Chapter 177 of the Session Laws of North Dakota for 1929, a body to be known as the planning commission of the city. (1942 Rev. Ords. §16-101)

2.36.013 Zoning commission. The planning commission shall also serve as the zoning commission of the city with the authority to hold hearings, make reports and recommendations as to the boundaries of the various original districts and appropriate regulations to be enforced therein, and for changes in or supplements thereto and to exercise such additional authority and powers as set forth for zoning commissions in Chapter 40-47 and 40-48 of the North Dakota Century Code. (Ord. 286 §3, 1986)

2.36.020 Members--Number of--How appointed. The planning commission shall consist of at least five, but no more than ten, members, who shall be appointed as hereinafter provided. The mayor, the city building inspector, and the city attorney shall act as additional ex officio members of the planning commission. In addition to the members appointed by the city, the planning commission shall include one person who resides outside of the corporate limits of the city, but within the territorial limits of the subdivision authority as is exercised by the city, if such a person is available and willing to serve on the planning commission. This additional member shall be appointed by the board of county commissioners. (Ord. 288 §1, 1986: Ord. 286 §1, 1986: 1942 Rev. Ords. §16-102)

2.36.030 Vacancies. If a vacancy should occur otherwise than by the expiration of term, it shall be filled by appointment for the unexpired portion of the term. (1942 Rev. Ords. §16-103)

2.36.040 Officers. The commission shall elect its president from among the appointed members for a term of one year, and, subject to other provisions of law, may create and fill such other offices as it may determine. (1942 Rev. Ords. §16-104)

2.36.050 Secretary--Appointment--Term of office. There is created the office of secretary of the commission, same to be appointed by the commission for the term of one year and to hold office until his successor is chosen and qualified. (1942 Rev. Ords. §16-105)

2.36.060 Duties of secretary. The secretary shall keep a record of all of the proceedings of the commission and perform such other duties as are usual and pertinent to his office and such other duties as the commission may provide for, and shall be custodian of all books, papers, and records belonging to such commission. (1942 Rev. Ords. §16-106)

2.36.070 Terms of office. The ex officio members shall serve during and for their respective terms for

* For state law as to municipal master plans and planning commissions, see N.D.C.C., Chapter 40-48.

2.36.010 Created. There is created pursuant to Chapter 177 of the Session Laws of North Dakota for 1929, a body to be known as the planning commission of the city. (1942 Rev. Ords. §16-101)
which they are elected or appointed. The mayor shall appoint members of the planning commission pursuant to and for terms as set forth in Chapter 40-48 of the North Dakota Century Code. Except as otherwise provided in Section 2.36.020, the members of the planning commission shall be residents of the city. (Ord. 286 §2, 1986: 1942 Rev. Ords. §16-107)

2.36.080 Confirmation of appointments by city council. The mayor shall submit to the city council, at the next meeting after making such appointments, the names of the persons appointed and the length of their terms and the city council shall, by a majority vote, confirm or reject such appointments. If such appointments are rejected, the mayor shall make other appointments for such appointees as may be rejected, which the appointments shall be approved or rejected in like manner. (1942 Rev. Ords. §16-108)

2.36.090 Other appointments. The commission may create and appoint such other officers as it may determine as necessary and proper from time to time and fix the terms and duties of such officers. (1942 Rev. Ords. §16-109)

2.36.100 Powers and duties. The commission may, from time to time, adopt such rules and regulations for the transaction of its business as it shall deem necessary, and shall have such powers and perform such duties as have been, and may be conferred upon them in pursuance to the said act and under the laws of North Dakota. (1942 Rev. Ords. §16-110)

2.36.110 Meetings. The first commission so appointed shall take office on the 17th day of May, 1935, and shall hold its first meeting on that day. All meetings shall be held at the city hall. (1942 Rev. Ords. §16-111)

2.36.120 Powers and compensation. The planning commission shall have such powers and shall perform such duties as may now or hereinafter be provided by law and shall receive no compensation, except that they may be allowed actual expenses for traveling as provided by law. (1942 Rev. Ords. §16-112)
Chapter 2.40

SPECIAL ASSESSMENT COMMISSION

Sections:

2.40.010 Salary and bond.

2.40.010 Salary and bond. Each member of the special assessment commission of the city shall receive a salary of five dollars per day for each day actually and necessarily engaged in the work of the commission and shall each give a bond in the sum of five hundred dollars. (1942 Rev. Ord. §3-903)
Chapter 2.44

ELECTIONS

5. For state law as to municipal elections, see N.D.C.C., Chapter 40-21.

Sections:

2.44.010 How conducted. All elections hereafter held in the city, for any purpose whatever, except as otherwise provided by law, shall be conducted and nominations therefor made substantially in the manner set out in this chapter. (1942 Rev. Ords. §2-201)

2.44.020 Notice to be given. Whenever the mayor or city council deems it necessary to call an election, either general or special, for any purpose, or when required by law, whether affecting the city generally or otherwise, the city council shall direct the city auditor to publish in the official paper once, a notice that a general or special election is about to be called, the purpose thereof, and, further if such election is called for the purpose of filling a vacancy or one in which an officer is to be elected. (1942 Rev. Ords. §2-202)

2.44.030 Candidate to file petition. Any person desiring his name to appear on the official ballot as a candidate for any office to be voted upon at such election, shall, within ten days after the first publication of such notice, file with the city auditor a petition in writing signed by a number of qualified voters equal to ten percent of the total number of votes cast at the last general election for the office to which such candidate aspires, which petition shall state the office to which such person aspires, and ask that his name be placed on the official ballot as a candidate for such office. (1942 Rev. Ords. §2-203)

2.44.040 Auditor to prepare ballots. Upon the expiration of ten days from the first publication of the notice hereinbefore provided for, the city auditor shall cause to be prepared the official ballots for such election, placing the names thereon in alphabetical order opposite each office to be voted for, headed “individual nominations” and placing thereon the names only of such candidates as have filed the petition herein provided for, and shall cause such ballots to be printed and distributed to the inspectors of such election as is provided for general elections; all of such ballots to contain a place for the writing in of a name or names of candidates not appearing on such ballot. (1942 Rev. Ords. §2-204)

2.44.050 Council to appoint inspectors. The city council shall, at the time the city auditor is directed to publish the notice provided for in Section 2.44.040, appoint one or more inspectors of elections as the case may require, which inspectors shall appoint judges and clerks for such election. (1942 Rev. Ords. §2-205).

2.44.060 Notice and canvass of returns for special elections. Notice of special elections shall be given and the returns canvassed in the same manner provided for general elections. (1942 Rev. Ords. §2-206).
TITLE 3
REVENUE AND FINANCE

Chapters:

3.02 Purchasing Procedures
3.04 Hotel/Motel Occupancy Tax
3.06 Lodging and Restaurant Tax
3.08 Sales and Use Tax
3.12 Conveyance, Sale, Lease or Disposal of Property
Chapter 3.02

PURCHASING PROCEDURES

Sections:

3.02.010 Competitive Bidding Requirements
3.02.020 Procedure
3.04.030 Capitalization Plan

3.02.010 Competitive Bidding Requirements

All purchases of and contracts for supplies and contractual services with a cost in excess of twenty five thousand dollars ($25,000.00) shall be based on competitive bids.

3.02.020 Procedure

1) All supplies and contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed twenty five thousand dollars ($25,000.00) shall be purchased from the lowest responsible bidder after due notice inviting proposals. Due notice shall be given by advertising for the sale or purchase of the property or service by giving written notice in the official newspaper of the City for two (2) consecutive weeks and the opening of the bids so received not less than 14 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 contracts, sufficiency of financial resources and previous and existing compliance with state laws and City ordinances.

2) If the amount of a given purchase does not exceed two thousand five hundred dollars ($2,500.00), the manner of accomplishing the purchase is left to the discretion of the department supervisor or purchasing agent.

3) If the amount of a given purchase exceeds two thousand five hundred dollars ($2,500.00) but does not exceed five thousand dollars ($5,000.00), the department supervisor or purchasing agent, before making the purchase, shall informally solicit two (2) or more quotes from vendors, which quotes need not be in writing, but which may be made orally by telephone or in person. The department supervisor or purchasing agent shall keep a formal record of the persons from whom quotes were solicited, the manner in which the quotes were solicited, the date when the quotes were solicited, and the price and other pertinent detail of each quote received. All purchases exceeding two thousand five hundred dollars ($2,500.00) shall require specific council approval, even if budgeted.

4) If the amount of a given purchase exceeds five thousand dollars ($5,000.00) but does not exceed twenty five thousand dollars ($25,000.00), the department supervisor or purchasing agent shall proceed in accordance with subsection 1), except that the quotes must be put in writing by the vendor in order to be considered.

5) All purchases should be made from local suppliers or vendors whenever available, with the exception of emergencies.

3.02.030 Capitalization Plan

All purchases in excess of $5,000.00 shall be included in the city’s fixed assets records. The City Council may determine that certain equipment of lesser value may be included as it chooses.
Chapter 3.04

HOTEL/MOTEL OCCUPANCY TAX

Sections:

3.04.010   Levied--Rate.  There is levied upon the occupancy of any room or space furnished by any hotel or motel where such cost of occupancy is at the rate of two dollars or more per day; such tax to be two percent of the consideration paid by the occupant for the occupancy of such rooms or space. This tax is in addition to any other tax levied by the city, whether enacted before or after the effective date of the ordinance codified in this chapter. (Ord. 273 §2, 1983)

3.04.020   Use of revenue.  The revenue from this tax is to be used exclusively to promote, encourage, and attract visitors to come to the city and use the travel and tourism facilities within the city. (Ord. 273 §2, 1983)

3.04.030   Collection of tax.  The State Tax Department shall be responsible for collection of such tax. (Ord. 273 §3, 1983)
Chapter 3.06

LODGING AND RESTAURANT TAX

Sections:

3.06.010 Levied--Rate.

3.06.010 Levied--Rate. Pursuant to Section 40-57.3-01.1 of the North Dakota Century Code, there is hereby levied a tax of one percent upon the gross receipts of retailers on the leasing or renting of hotel, motel or tourist court accommodations within the city, for periods of less than thirty consecutive calendar days, or one month, and upon the gross receipts of restaurants for any sales of prepared food or nonalcoholic beverages. (Ord. 334, 1997)
Chapter 3.08

SALES AND USE TAX

Sections:

3.08.010  Definitions. All terms defined in Chapters 57-39.2 and 57-40.2 NDCC, including any future amendments, are adopted by reference. All references to the North Dakota Century Code include amendments adopted by the legislature of the state of North Dakota. (Ord. 315 §1, 1992)

3.08.020  Sales tax imposed. Except as otherwise provided in this chapter, a tax of two percent is imposed upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within the corporate limit of the city of Rugby, North Dakota. Such sales tax shall parallel the state of North Dakota sales and use tax law. All of the exemptions applicable for state sales and use tax apply to the Rugby sales and use tax including exemptions for tax exempt entities (schools, counties, state agencies, etc.). Such sales tax shall be applied to the following:

   (1) Tangible personal property, consisting of goods, wares or merchandise;
   (2) The furnishing or service of communications services;
   (3) Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment or athletic activity;
   (4) The leasing or renting of a hotel or motel room or tourist court of accommodations;
   (5) Magazines and other periodicals;
   (6) The leasing or renting of tangible personal property, the tax transfer of title to which has not been subjected to tax under this chapter;
   (7) Sale of alcoholic beverages and tobacco products as defined in NDCC Section 57-39.2-03.2;
   (8) Gross receipts from the sale of tangible personal property costing sixteen cents or more sold through a coin-operated vending machine;
   (9) Furnishing and installment or attachment to real property in this state by a contractor or subcontractor who is a retailer of drapes, hardware for hanging drapes, or carpet for floor covering. (Ord. 315 §2, 1992; Ord 373, 2009)

3.08.030  Use tax imposed. Except as otherwise provided in this chapter, an excise tax of two percent is imposed on the storage, use or consumption in the city of Rugby on:

   (1) The purchase price of tangible personal property purchased at retail for storage, use or consumption within the city;
   (2) The fair market value, at the time it's brought into the city, of tangible personal property not originally purchased for storage, use or consumption in the city, at the time which it is brought into the city of Rugby;
   (3) Alcoholic beverages and tobacco products as defined in NDCC Section 57-39.2 - 03.2;
   (4) Tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in NDCC Section 57-40.2 - 03.3. The tax applies only to bids submitted on or after January 1, 1993. (Ord. 315 §3, 1992; Ord 373 2009).
3.08.040 Exemptions. All sales storage, use or consumption of tangible personal property which are exempt from imposition and consumption of the sales or use tax of the state of North Dakota are specifically exempt from the provisions of this chapter. In addition to the exemptions provided by state law, the Rugby tax ordinance provides exemptions for sales of natural gas, gross receipts from the sale of farm machinery and agricultural repair parts, automobiles, trucks and pickups, farm irrigation equipment and steam used for the processing of any product. (Ord. 315 §4, 1992)

3.08.050 Maximum tax imposed. No single transaction involving one or more items is subject to a tax in excess of twenty-five dollars. (Ord. 315 §5, 1992)

3.08.060 Collection and administration. The tax commissioner and the city auditor shall have the powers enumerated in the provisions of NDCC Chapters 57-39.2 and 57-40.2 relating to the collections and administration of the state sales and use tax including all administrative rules adopted by the tax commissioner. The tax commissioner is authorized to establish rate tables integrating the tax imposed by this chapter with other state, county and city taxes. (Ord. 315 §6, 1992)

3.08.070 City auditor empowered to contract with State Tax Commissioner. The city auditor is authorized to contract with the tax commissioner for the administration and collection of taxes imposed by this chapter. The city auditor has all the powers granted the commissioner and in the absence of a valid contract with the commissioner or failure of the commissioner to perform the delegated duties, shall perform those duties in the place of the commissioner. (Ord. 315 §7, 1992)

3.08.080 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. (Ord. 315 §8, 1992)

3.08.090 Dedication of tax proceeds. (a) Thirty-five percent of all revenues raised and collected under this chapter, less administrative expenses, shall be dedicated only to a community development fund. All revenue shall be maintained in the fund, to be known as the Rugby community development fund, separate and apart from all other funds, except as provided by this section.

The revenue contained in such fund shall be used for the community and economic development projects. Proposed projects may include economic development and job creation, a Rugby area growth fund and general infrastructure development including water, sewage, roads, utilities and other projects that will enhance job creation.

(b) Sixty-five percent thereof shall be expended for the construction, operation and maintenance of Rugby area capital improvements, including, but not limited to, street system, sewer systems, water systems, airport, libraries, auditoriums, public safety improvements, etc. (Ord. 315 §9, 1992; Ord 373, 2009)

3.08.100 Compensation. City sales and use tax permit holders are allowed to retain a portion of their city tax collections or use tax obligation to help recover administration expense. The compensation shall equal three percent of the city sales and use tax due, however the deduction is limited to fifty dollars per month or one hundred fifty dollars per quarter. A tax return must be filed and paid in full by the scheduled due date or the compensation will be disallowed and the tax obligation will be subject to penalty and interest. (Ord. 315 §10, 1992).

3.08.110 Termination. The tax imposed herein shall not terminate unless voted upon by the city council or in an election. (Ord. 315 §11, 1992; Ord. 373, 2009)
Chapter 3.12
CONVEYANCE, SALE, LEASE OR DISPOSAL OF PROPERTY

Section 3.12.010 Restrictions.

A. Real property belonging to the city shall be conveyed, sold, leased or disposed of, only as approved of by a majority vote of all members of the governing body. Instruments affecting such conveyance, sale, lease or disposal shall be valid only when duly executed by the mayor 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 city to be of a value of less than $2,500.00, such property may be sold at private sale upon the proper resolution of the governing body. In all other cases, such property may be sold only at public sale or as provided under Section 3.12-010 (C) of the city ordinances. 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 or any special meeting scheduled to review such bids. Except as otherwise provided in this Chapter 3.12, when the following 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. The specific statutory provisions include only 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, except lease of public buildings or portions thereof for use as a jail, correctional facility, or other law enforcement purpose for a term of up to 30 years may be approved by a majority vote of all members of the governing body of the city.

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.

B. Upon resolution by the governing body of a city authorizing the public sale of real property, a notice containing a description of the property to be sold and designating the place where and the day and hour when the sale will be held shall be published in the city’s official newspaper once each week for two consecutive weeks with the last publication being at least ten days in advance of the date set for the sale. The notice shall specify whether the bids are to be received at auction or as sealed bids as determined by the government body of the city. The property advertised shall be sold to the highest bidder if that person’s bid is deemed sufficient by a majority of the members of the governing body.
C. As alternatives to the procedure established under Section 3.12.010 A, the governing body of the city may by majority vote of all members of the governing body choose either of the following:

1. Describe the property (real or personal) of the city which is to be sold; provide a maximum rate of fee, compensation, or commission; and provide that the city reserves the right to reject any and all offers determined to insufficient. After adoption of the resolution, the governing body of a city may engage one or more licensed real estate brokers to attempt to sell the described property by way of nonexclusive listing agreements.

2. Or, sell the property (real or personal) of the city to a government entity or a joint powers authority formed under Chapter 54-40.3 NDCC offering to pay the fair market value or the appraised value for the property. (Ord. 326, 1995; Ord 371 & 372, 2009)
TITLE 4
BUSINESS REGULATIONS AND LICENSES

Chapters:

4.04  Business Licenses
4.08  Bowling Alleys and Pool Tables
4.10  Games of Chance
4.12  Transient Merchants
4.16  Peddlers and Solicitors
4.17  Shows, Carnivals, and Circuses
4.32  Itinerant Doctors
4.36  Vehicles for Hire
4.40  Food Establishments
4.44  Fortunetelling
4.48  Club Licenses
4.50  Franchises
Chapter 4.04

Business Licenses

Sections:

4.04.010  How obtained.
4.04.020  Expiration and period.
4.04.030  Fee--Short terms.
4.04.040  Duty of city auditor.
4.04.050  Not transferable.
4.04.060  Subject to ordinances.
4.04.070  Duty of chief of police to enforce.
4.04.080  Not to issue unless personal property Taxes paid.
4.04.090  Proof that personal property taxes paid necessary.
4.04.100  Renewal of licenses.
4.04.110  Placement of moneys.

4.04.010  How obtained. Licenses For the carrying on of any of the businesses or trades mentioned hereafter may be obtained by any person or persons paying into the city treasury the amount specified, and upon presentation of the treasurer's receipt to the city auditor, it shall be his duty to issue a license to any such person or persons.

Provided, however, that no license shall be issued unless the applicant or applicants shall have first obtained the consent of the city council or the mayor and provided further, that the city council or the mayor may at any time, with or without cause, refuse to grant authority to issue a license to such applicant or applicants. (1942 Rev. Ords. §15-101).

1. For state law authorizing a city to fix the amount, terms and manner of issuing and revoking a license, see N.D.C.C. §40-05-01 (24)

4.04.020  Expiration and period. Draying peddling, commercial advertising, and any other licenses whatsoever shall be issued for a period of one year expiring December 31st. All other licenses shall be granted for one or more consecutive performances as hereinafter provided. (Ord. 244, 1979: Ord. 147 (part), 1967: 1942 Rev. Ords. §15-102).

4.04.030  Fee--Short terms. The license fee provided herein for all yearly licenses shall not be subject to rebate or reduction by reason of the fact that any such license is issued for a less period than one year. (1942 Rev. Ords. §15-103).

4.04.040  Duty of city auditor. It shall be the duty of the city auditor to record the names of all persons to whom licenses are granted, the number of licenses, the purpose for which granted, and the place where any business or other performance is to be carried on. (1942 Rev. Ords. §15-104)

4.04.050  Not transferable. No license granted under the provisions of this title shall be transferred without the consent of the mayor or council. (1942 Rev. (Ords. §15-105).

4.04.060  Subject to ordinances. All licenses granted by virtue of the provisions of this title shall be subject to all ordinances in force at the time of its issuance (1942 Rev. Ords. §15-106).

4.04.070  Duty of chief of police to enforce. The chief of police shall enforce all ordinances with reference to licenses, and shall examine the records in the auditor's office from time to time, and prosecute all persons who are acting without license or otherwise violating the provisions of this title. (1942 Rev. Ords. §15-107).

4.04.080  Not to issue unless personal property taxes paid. Whenever, pursuant to any ordinance of the city, now existing or which may hereafter be enacted, a license is required to be obtained from the city for the conduct of any business, trade, or occupation or for any other purpose except dog licenses,
no license shall be issued to any person, firm, or corporation until such person, firm, or corporation shall have paid all delinquent and current personal property taxes owing by such person, firm, or corporation to the County of Pierce in North Dakota. (1942 Rev. Ords. §15-108)

4.04.090 Proof that personal property taxes paid necessary. Such applicant for license shall, at the time of making his application for such license, furnish to the city auditor of the city, a receipt showing that all such taxes have been paid, executed by the county treasurer, the sheriff or the county auditor of Pierce County or a statement from such officials or one of them, to the effect that all such personal property taxes have been paid. (1942 Rev. Ords. §15-109).

4.04.100 Renewal of licenses. When any person, firm, or corporation has heretofore been issued a license pursuant to any ordinance of the city and such person, firm, or corporation desires to renew such license as provided by the title requiring the license, such person, firm, or corporation shall furnish and file like information as required by Section 4.04.090 and no license shall be renewed unless the applicant for such license has paid all delinquent and current personal property taxes assessed against such applicant in Pierce County, North Dakota. (1942 Rev. Ords. §15-110).

4.04.110 Placement of moneys. All money paid into the city treasury under the provisions of this title shall be placed to the credit of the general fund of the city, to be disbursed in the same manner as the funds derived from the usual course of taxation for such account. (1942 Rev. Ords. §15-111)
Chapter 4.08

BOWLING ALLEYS AND POOL TABLES

Sections:

4.08.030 Drinking of intoxicating liquor prohibited.
4.08.040 Penalty for violation.

4.08.030 Drinking of intoxicating liquor prohibited. It shall be unlawful for any owner, or operator, of a bowling alley, or alleys, within this city to permit the consumption of intoxicating liquor of any kind within or upon the premises where such alley or alleys are conducted or maintained (1942 Rev. Ords. §15-203).

4.08.040 Penalty for violation. If any person or persons other than the owner, proprietor and keeper or either the agent, servant or employee of the keeper of any of the aforementioned places shall be found, be or remain therein during the times hereinbefore set forth or any part thereof, the same shall be deemed and constitute a violation of this chapter and every such person and the keeper or keepers of such place and any agent, servant, employee or other person who shall be and have immediate charge, custody and care of any such place at the time of any violation of this chapter, shall each and severally be deemed guilty of a violation of this chapter, and shall upon conviction thereof be subject to the penalty as defined in Section 1.01.110. (1942 Rev. Ord. §15-204).

2. For state law authorizing the regulation and licensing of bowling alleys and pool tables, see N.D.C.C. §40-05-01(30).
Chapter 4.10

GAMES OF CHANCE

Sections:

4.10.010  State law adopted.
4.10.020  Application requirements.
4.10.030  Authorization.
4.10.040  Copies sent.

4.10.010  State law adopted.  House Bill No. 1264 of the North Dakota Legislative Assembly, Bismarck, North Dakota, which bill was duly signed into law, relating to gambling, is incorporated in and made a part of this chapter, subject to the regulations set forth in Sections 4.10.020 through 4.10.040. (Ord. 234 (part), 1977).

4.10.020  Application requirements.  The city may accept an application from eligible organizations in writing for permission to conduct games of chance in the city in which said organizations conduct their principal activities, at least thirty days prior to each occasion, stating therein the particular game of chance, time, place and educational, charitable, patriotic, fraternal, religious, or other public-spirited uses to which the proceeds will be devoted.  (Ord. 234 (part), 1977)

4.10.030  Authorization.  (a) The governing body may, at its own discretion and upon application by an eligible organization, grant permission to such games as described in Section 4.10.020 for specifically designated times, places and uses, covering a period of one year.

(b)  The fee for said authorization shall be ten dollars for one occasion and twenty-five dollars for authorization covering more than one occasion.

(c)  The authorization, if granted, shall conform to types of games of chance as authorized by the city and subject to state law mentioned and incorporated in Section 4.10.010.  Said authorization shall be limited to only the occasion or occasions authorized and games of chance authorized by the city.  (Ord. 234 (part), 1977).

4.10.040  Copies sent.  A copy of each resolution or permit granted by the city shall be the sent to the attorney general not later than thirty days’ after issuance.  Such copy shall be sent by the city auditor.  (Ord. 234 (part) 1977)
Chapter 4.12

TRANSIENT MERCHANTS*

Sections:

4.12.010 Transient merchant defined--Products not deemed merchandise.
4.12.020 License required.
4.12.030 Application--Fees.
4.12.040 Penalty.

* For state law authorizing the regulation and licensing of transient businesses and amusements, see N.D.C.C. §40-05-01 (26)

4.12.010 Transient merchant defined--Products not deemed merchandise. (a) Transient merchant includes any person, individual, co-partnership or corporation, either as principal or agent, who engages in, does, or transacts, any temporary or transient business in the state, either in one locality or in traveling from place to place in this state, selling goods, wares, merchandise, personal property, and personal services, including, but not limited to, spraying, trimming, or pruning of trees and shrubs of all species, painting or repairing buildings or structures, and pest or rodent control, who does not intend to become and does not become a permanent merchant of such place and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, lot, tract, railroad car, or motor vehicle for the exhibition and sale of such goods, wares and merchandise.

(b) Merchandise shall not include any livestock or agricultural products. (Ord. 279 §1, 1984; Ord. 15 1/2 (part), 1947: 1942 Rev. Ords. §15-301).


4.12.030 Application--Fees. The application for a license as a transient merchant shall be made in writing to the city auditor, upon such forms as he shall require.

(1) The application shall include the following information:

(A) Applicant’s name, present residence, present home address, and present business address;

(B) Applicant’s residence and business address for the prior two year period if different from the present residence and address;

(C) Type of business in which applicant has been engaged in the previous two years;

(D) Proposed location of the business to be licensed;

(E) Kind of business to be conducted;

(F) Length of time desired or estimated for completion of sale in the city;

(C) Name and address of the auctioneer, if any, who will conduct the same;

(H) A general list of merchandise to be offered for sale reciting as to the items a description thereof including serial number, if any, the owners actual cost thereof, and a designation by number as to the sale price corresponding with the number to be affixed to each item by a tag which shall be kept fastened to the item at all times until sold;

(I) The application shall have attached to it a proof of surety bond coverage obtained from the county treasurer or surety bond approved by the Attorney General's Office as required under Section 51-04-03 of the North Dakota Century Code;

(J) An applicant for a transient merchants license shall also show proof that he has obtained the appropriate corresponding license from the county or Attorney General’s Office and has paid the appropriate license fee of twenty-five dollars to the county or Attorney General’s Office as required by Section 51-04-03 of the North Dakota Century Code.

(2) Upon receipt of the completed application to the city auditor’s office, the city auditor
shall collect the license fee as prescribed in this section. The city auditor shall notify the chief of police, Rugby police department, who shall then have a twenty-four hour period to run a police check on the applicant. At the expiration of the twenty-four hour period, the application as submitted and the report of the chief of police if any available, city auditor shall approve or disapprove the application. If the application is approved by the city auditor, the city auditor shall issue the license to an applicant for a period of not to exceed one year from the date of its issuance. All licenses, permits or bonds required by the city code or state law including receipts showing the per diem fee paid shall be properly displayed to the public at the site, building, structure, lot, tract, railroad car or motor vehicle where the exhibition and sale of such goods, wares and merchandise takes place.

(3) Any person desiring a license as a transient merchant, shall, before receiving such a license, pay to the treasurer or city auditor a license fee computed in the following manner:

(a) twenty-five dollars per diem license fee for each day that he is actually engaged in carrying on his business in the city. Such sum shall be paid in full for the entire license period at the time of the application. (Ord. 279 §2, 1984: Ord. 48 (part), 1952: 1942 Rev. Ords. §15-303)

4.12.040 Penalty. Any person violating any provisions of this chapter, for which another penalty is not specifically provided, who is found guilty shall be subject to a penalty not exceeding five hundred dollars in fines or thirty days in jail or both. (Ord. 279 §3, 1984)
Chapter 4.16

PEDDLERS AND SOLICITORS*

Sections:
- 4.16.010 Residential district.
- 4.16.020 Persons not classified as solicitors.
- 4.16.030 Police department to enforce.
- 4.16.040 On private property.
- 4.16.050 Exceptions.
- 4.16.060 License required.
- 4.16.070 Fees.
- 4.16.080 Restrictions--Term.
- 4.16.090 Penalty.

* For state law authorizing the regulation and licensing of hawkers, peddlers and pawnbrokers, see N.D.C.C. §40-05-01 (26).

4.16.010 Residential district. Section 4.16.020 shall apply and be in force only as to residences in the city and shall not be deemed to apply to business places, or places occupied by doctors, lawyers, or other professional persons within the city. (1942 Rev. Ords. §15-408)

4.16.020 Persons not classified as solicitors. This chapter shall not apply to government mail carriers, telegraph, express, or freight messengers, inspectors, agents, or representatives of the Federal Government or the city or the county or the state of North Dakota, or local merchants, to inspectors or service employees of any established telephone, electric light, or other utility, to any newsboys making regular deliveries to a subscriber of any owner or occupant of such private residence, to duly licensed transient merchants, hawkers, peddlers, or solicitors. (1942 Rev. Ords. §15-409)

4.16.030 Police department to enforce. The police department of the city is required to abate the business hereinbefore described by the immediate arrest of those found guilty of perpetrating any such nuisance. (1942 Rev. Ords. §15-410)

4.16.040 On private property. The practice of going in and upon private residences or privately owned property in the city, by solicitors, peddlers, hawkers, itinerant merchants, or transient vendors of merchandise, not having been requested or invited so to do by the owner or owners, occupant or occupants, of the private residences or property, for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and punishable in the manner provided in Section I.01.110. (Ord. 49 §1, 1952).

4.16.050 Exceptions. The provisions of this chapter shall not apply to the sale or solicitation of orders for the sale of milk, dairy products, vegetables, poultry, eggs, or other farm produce so far as the sale of such commodities is now authorized by law. (Ord. 49 §3, 1952).

4.16.060 License required. No person shall travel from place to place within the limits of the city, for the purpose of carrying to sell, or exposing or offering to sell, barter, or exchange, any goods, wares, merchandise or other property whatever without first obtaining a license so to do. This shall not apply to peddlers and hawkers of agricultural, horticultural, or farm products which they may grow. (Ord. 50 §1, 1952)
4.16.070 Fees. Any person desiring to procure a license to engage in the occupation of peddling and hawking in the city, shall make application in writing to the city auditor, upon such forms as he shall require, and if application therefore is approved by the city auditor, the applicant shall thereupon pay to the city auditor for such license the sum of twenty-five dollars per day or part of a day. (Ord. 279 §4, 1984: Ord. 50 §2, 1952)

4.16.080 Restrictions--Term. The city auditor shall thereupon issue to the applicant a receipt for the amount paid and deliver the same to the applicant and shall issue to the applicant such license. No license shall be transferable and no license shall authorize more than one person named therein in his own right to peddle or hawk thereunder. Upon the request of the applicant a license may be issued for any number of days within the year in which it is issued upon payment by the applicant of the per diem set out in Section 4.16.070 for each day of the license. If no time shall be specified by the applicant the license shall be issued for one day, only, and may be renewed from time to time thereafter upon payment of the per diem set out above. (Ord. 50 §3, 1952).

4.16.090 Penalty. Any person violating any of the provisions of this chapter, for which another penalty is not specifically provided, who is found guilty shall be subject to a penalty not exceeding five hundred dollars in fines or thirty days in jail or both. (Ord. 279 §5, 1984)
Chapter 4.17

SHOWS, CARNIVALS, AND CIRCUSES

Sections:

4.17.010 License Required

4.17.010 License Required

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

Any carnival or circus granted a license shall deposit with the city auditor a certificate of insurance in addition to a cash bond in the amount of $500.00 guaranteeing that the 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 street superintendent and upon certification of the street superintendent to the city auditor or if the City has no street superintendent upon determination of the city auditor that the same has been done said cash deposit shall be returned to the licensee. (Ord. 352, 2006)
Chapter 4.32

ITINERANT DOCTORS

Sections:

4.32.010  License required.
4.32.020  Fee.

4.32.010  License required. It shall be unlawful for any itinerant doctor, physician, surgeon, or dentist to ply his vocation in the city whether in hotels, private houses, or in the streets or other public places, whether for advertising or not, or professing to cure diseases by any method whatever, unless any such person shall have previously obtained a license therefore. (1942 Rev. Ords. §15-801)

4.32.020  Fee. No license for the purposes mentioned in Section 4.32.010 shall be issued for any length of time for a less fee than twenty-five dollars a clay. (1942 Pev. Ords. §15-802)
Chapter 4.36

VEHICLES FOR HIRE

6. For state law authorizing the regulation and licensing of vehicles for hire, See N.D.C.C. §40-05-91(27).

Sections:

4.36.010 Taxicab defined. "Taxicab", as used in this chapter, means and includes any vehicle with seating capacity of seven passengers or less, engaged in carrying passengers for hire within the corporate limits of the city. (Ord. 40 §1, 1950)

4.36.020 License required. No person, firm or corporation shall engage in the business of carrying passengers in taxicabs for hire or compensation within the corporate limits of the city, without first obtaining a license from the city so to do for each and every taxicab used therefore, and comply with the terms and provisions of this chapter. (Ord. 40 §2, 1950).

4.36.030 Application for license. Any person, firm or corporation desiring such license may make written application to the city council, which application shall state the name, age and residence of such applicant, the name of the vehicle or taxicab for which license is desired, the serial and motor numbers, the horsepower, the year when such vehicle was made and the seating capacity of each taxicab sought to be licensed. (Ord. 40 §3, 1950)

4.36.040 Fees. The license fees for each taxicab sought to be licensed by each applicant is and shall be fifteen dollars for the first taxicab and one dollar for each additional taxicab sought to be licensed by the same applicant. Every application for such license shall be accompanied by such license fees, which advance license fee shall be returned to the applicant if such application be denied or rejected by the city council. (Ord. 40 §4, 1950)

4.36.050 Investigation of applicant--Granting license. Before granting any such license it shall be the duty of the city council to investigate as to the applicant's habits and character and financial responsibility, and the council shall take into consideration, in the granting or refusing to grant such license, the public convenience and necessity and shall not grant additional licenses for taxicabs for the use on the streets or highways of the city when, in the opinion of the city council, the public convenience and necessity do not require that such additional taxicabs to be licensed. (Ord. 40 §5, 1950).

4.36.060 Liability insurance required. Upon the investigation being made as hereinbefore stated, and upon the city council determining that such application be granted, and one or more taxicabs so
licensed, conditioned, that the applicant shall first procure and file with the auditor of the city an indemnity insurance policy or policies, conditioned, in effect, to pay any judgment for damages to property or damages to or death of any passenger or other person caused by the negligence, omission or want of care in operating or handling the licensed taxicab, by the licensee, his agents or servants, within the city, during the life of the license only, in the sum of twenty-five thousand dollars covering each taxicab to be so licensed; such indemnity policy to be executed by a surety, casualty or indemnity company duly authorized to do such business, and doing such business, in North Dakota, and, in effect, conditioned to so indemnify and pay such damages for loss of or injury to property or passenger or other persons in a sum not to exceed five thousand dollars for each taxicab for which license is so sought, and further conditioned, in effect, to so indemnify and pay such damages for personal injury to, or death of, passengers of said taxicab or any other person in a sum not to exceed twenty thousand dollars for each taxicab for which license is so sought; and further conditioned, in effect that the maximum indemnity for any such personal injury to, or death of, any one person based on or growing out of any one such accident shall not exceed five thousand dollars, (Ord. 40 §6, 1950)

4.36.070 Issuance of license. The city council having determined to issue the license, and the applicant having first filed and deposited in the office of the city auditor an indemnity policy of insurance in accordance with Section 4.36.060, then a license, as applied for, shall be issued by the city auditor of the city, covering the particular taxicab or taxicabs for the period of one year only from the date of the license. (Ord. 40 §7, 1950)

4.36.080 Signs on taxicabs. It shall be the duty of the licensee, before operating any such taxicab on the streets of the city to paint or stamp on the body of the taxicab in reasonably large print, the words “TAXICAB,” “his name” and the “the license number.” No licensee, his agents or servants, shall allow or permit to be carried on or in the taxicab, as passengers or otherwise, within the city, more persons than the regular seating capacity thereof will reasonably accommodate and seat therein. Upon the expiration of any such license, unless the same is renewed, it shall be the duty of the licensee, to erase or obliterate the words and figures aforesaid so painted or stamped on the taxicab before using the taxicab for any purpose on the streets or public highways of the city. (Ord. 40 §8, 1950)

4.36.090 Revocation of license. Any license issued under the provisions of this chapter shall be, and is, issued with the distinct understanding that such license may be revoked and terminated by the city council at any time the council may deem it necessary. (Ord. 40 §9, 1950).

4.36.100 Maximum charge for transportation. The maximum price or rate of fare to be charged for transportation of each passenger from any one place to another within the city limits, shall not exceed one dollar and fifty cents for each passenger. (Ord. 218, 1975. Ord. 214, 1975: Ord. 178 (part), 1970: Ord. 40 §10, 1950).
Chapter 4.40

FOOD ESTABLISHMENTS

Sections:

4.40.020  Conformance.

4.40.010  U.S. regulations on file. The inspection of eating and drinking establishments within the city, or its police jurisdiction, the issuing, suspension, and revocation of permits for the operation of such establishments, the sale of adulterated, misbranded, or unwholesome food and drink, the enforcement of this chapter, and the fixing of penalties shall be regulated in accordance with the terms of the unabridged form of the 1943 edition of the U.S. Public Health Service Ordinance Regulating Eating and Drinking Establishments, a certified copy of which shall be on file in the office of The city clerk: Provided, That the words “city of _________” in said Public Health Service ordinance shall be understood to refer to the city of Rugby: Provided further, that in said ordinance all parenthetical expressions referring to grading shall be understood to be deleted: Provided further, that Sections 7 and 12, of said Public Health Service ordinance shall be replaced, respectively, by Sections 4 40.020 and I .01 110. Provided further, that in Section 2 of the ordinance, itinerant restaurants shall also be required to secure a permit. (Ord. 72 §1, 1957).

4.40.020  Conformance. No restaurant shall be operated within the city, or its police jurisdiction, unless it conforms with the requirements of said ordinance. Provided, that when any restaurant fails to qualify the health officer is authorized to suspend the permit. (Ord 72 §2, 1957).
Chapter 4.44

FORTUNETELLING

Sections:

4.44.010 License required.
4.44.020 Application for license.
4.44.030 Fee.
4.44.040 Revocation of license or permit.

7. For state law authorizing the regulation and licensing of fortunetellers, See N.D.C.C. §40-05-01(26).

4.44.010 License required. No person shall run or maintain any cane rack, knife rack, street stand, games of chance, or other games of any kind, whatever, nor practice fortunetelling, astrology, palmistry, clairvoyance, mesmerism, or spiritualism, without first applying for and obtaining a license therefore and paying the fee hereinafter provided for. (Ord. 141 §1, 1967: Ord. 78 §1, 1958).

4.44.020 Application for license. All applications for such licenses shall be made in writing and shall be made to the city auditor, and the city auditor with the advice and consent of the city council may grant a license upon the payment of the fee prescribed by Section 4.44.030. No such license shall be issued to cover more than one such stand, game, booth, or type of fortunetelling practice. (Ord. 141 §2, 1967: Ord. 78 §2, 1958)

4.44.030 Fee. The fee for the license prescribed under the terms and provisions of this chapter shall be in the sum of twenty-five dollars per day for each day or part thereof which such business or practice shall be in operation. (Ord. 141 §3, 1967: Ord. 78 §3, 1958).

4.44.040 Revocation of license or permit. Any license granted under the terms and provisions of this chapter may be revoked by the mayor for the violation by the licensee, or by any person operating under his direction or authority, of any ordinance provision relating to the license, the subject of the license, or to the premises occupied by such licensee; and such revocation may be in addition to any fine or penalty imposed for such violation. In addition, any license provided for hereunder may be revoked by the city council at any time for cause. “Cause” shall include but not be limited to, the following:

(1) Violation of the laws of North Dakota.
(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, or the practice of fraud or deceit in and about such business or trade so licensed, or upon the premises where the licensee is licensed to carry on such business or trade.
(4) The death of the licensee.
(5) When the licensee ceases business at the location licensed.

When the license is terminated or revoked for any cause, the licensee or those claiming under him, shall not be entitled to any return of the portion of the license fee previously paid to the city. (Ord. 141 §4, 1967: Ord. 78 §4, 1958)
Chapter 4.48

CLUB LICENSES

Sections:

4.48.010 Issuance--Fee. There is authorized the issuance of a club license to any club as defined in Sections 8.04.230 and 8.08.260 of this code, which shall permit the sale for consumption on the premises only, of both beer and liquor, for an annual fee of one hundred fifty dollars, and running from January 1st through December 31st of each year, the fee to include and supersede any other fees heretofore prescribed. (Ord. 183 (part), 1971)

4.48.020 Application. Application for the license named in Section 4.48.010 shall be made on such forms as may be prescribed from time to time by the city auditor’s office, and the licensee shall be subject to all of the other rules, regulations and requirements of this code as amended relating to sales of liquor and beer. (Ord. 183 (part), 1971).
Chapter 4.50

FRANCHISES

Sections:

4.50.050 Franchises Required
4.50.100 Otter Tail Power
4.50.200 North Dakota Telephone Company
4.50.300 Midcontinent Communications

4.50.050 Franchises Required. Except as otherwise provided by law, a person, firm, corporation or utility may not place or maintain any permanent or semipermanent fixtures, including poles, wire, cable, conduit, or any other medium used to transmit or transport electric or electronic signals, natural gas or other materials, in, over, upon or under any street or public place without a franchise to do so from the city or an easement approved by the City Council. A franchise may be granted by adoption of an ordinance. (Ord. 389, 2014).

4.50.100 Otter Tail Power

An Ordinance granting to the Otter Tail Corporation, a Minnesota Corporation, its successors and assigns, permission to erect, construct, install and maintain within the City of Rugby, an electric light and power system and transmission lines and to operate the same and to install conduits, poles, wires, pipes and other fixtures in, upon and under the streets, alleys, bridges, and public grounds of said City for the purpose of furnishing electric light, heat and power to said City and the inhabitants thereof.

Section 1
There is hereby granted to Otter Tail Corporation, a Minnesota Corporation, its successors and assigns, hereinafter called the Grantee, for a period of twenty (20) years from and after the passage and approval of this Ordinance and during all of said time, subject to the conditions and requirements hereinafter set forth, permission to construct, install and maintain an electric light and power system and transmission lines and to operate and maintain the same within and through the City and to transmit electricity to and from other towns or cities for the purpose of light, power and heat and to erect, construct, install and maintain conduits, poles, wires, pipes and other necessary fixtures and attachments upon and under the streets, alleys, bridges and public grounds of said City for the purpose of furnishing and selling electricity for light, heat and power and such other purposes for which electricity may be used by the inhabitants of said City, said permission and franchise to become operative and continue under the conditions hereinafter set forth.

Section 2
Said Grantee shall use poles, wires, cross arms, equipment and devices to conform with the standards of construction adopted by the National Electrical Safety Code of the United States, Department of Commerce, and all apparatus connected therewith shall be located so as not to obstruct the avenues, streets, and alleys of said City or to endanger persons or property or to hinder or to obstruct the use of said avenues, streets, and alleys for public places by the inhabitants of said City, or public in general, or to interfere with any street, sidewalk, curb, gutter or park improvements that the City may deem proper to make along the lines of said avenues, streets and public places.

Section 3
All conduits, poles, wires and pipes installed by virtue of this Ordinance shall be installed in such places and in such manner as not unnecessarily to encroach upon streets, alleys, bridges, or public grounds of said City, and so as not to unnecessarily obstruct the use thereof for the ordinary purpose of travel thereon, and the erection thereof shall be subject to the reasonable supervision and direction of the City Council of the said City. Whenever practicable, all poles shall be set in alleys, and poles now in position upon or along the streets, whenever practicable, shall be removed, and the locations
of all of said poles shall be designated by the Mayor under the supervision of the City Council of the said City.

All poles where set in alleys shall be set at or near the boundary line thereof, and where set in streets shall be located at such distances, as shall be directed by the city, from the property line of the abutting owner, and shall be placed so as not to interfere with the construction of placing of any water pipes, sewers, or drains or the flow of water there from which have been or may be placed by authority of said City. In the event that said Grantee shall make any unnecessary obstruction of said streets, alleys, public grounds or places not designated by the City Council, the City may cause the removal of such obstructions and charge and collect from such Grantee the actual cost of such removals.

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

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

Section 5
Whenever the said Grantee in erecting, constructing and maintaining said lines or poles, shall take up any of the pavements, sidewalks crossings or curbs on any of the avenues, streets and alleys or public places in said City or shall make any excavations thereon; such excavations shall be refilled and the sidewalk, crossing or curb replaced under the direction of the said City and any excavation so made shall be properly lighted at night during the construction, and in case of the failure to do so on the part of the said Grantee, then the said City may do the same at the expense of said Grantee and said Grantee agrees to pay said City for the reasonable cost or value of said work. Said Grantee shall be liable for all loss or damage caused by the negligence of Grantee, which may result to persons or property within the said City, caused by it, or its agents, servants, or employees in erecting, operating and maintaining the said electric system within said City, and shall at all times save the City harmless from any and all damages to persons or property in erecting, operating or maintaining said electric system.

Section 6
There is granted to said Grantee, its successors and assigns, during the term hereof, permission and authority to trim all trees in alleys, streets and public grounds of said City so as to remove all parts of said trees interfering with the proper erection maintenance and operation of poles, cables, wires, masts or other fixtures, or appliances installed or to be installed pursuant to authority hereby granted.

Said Grantee shall have full right and authority to assign any person, persons, firm or corporation all the rights that are given it by this Ordinance, provided that the assignee of such rights by accepting such assignment shall become subject to the terms and conditions of this Ordinance.

Section 7
The Grantee shall use due diligence and care in furnishing electric service as herein provided but shall not be liable for any loss or damage which may arise from failure of the service, either partial or total, but this shall not be construed to exempt said Grantee from liability for negligence.

Section 8
The rates to be charged by said Grantee in the said City shall be filed with the Public Service Commission of the State of North Dakota, and no increase or decrease in said rates shall be made except in accordance with the rules and regulations of the Public Service Commission.
This contract shall be subject to any present or future laws of a regulatory nature enacted by the State of North Dakota, or any amendment or addition to such laws and further shall be subject to the rules and regulations laid down by the Public Service Commission of the State of North Dakota.

Section 10
The City reserves the right during the term hereof to enact and assess a franchise fee such as it deems necessary, upon reasonable advance notice to Grantee of not less than thirty (30) days.

Section 11
In the event the City should sell or transfer real property which is subject to Grantee’s franchise and should it become necessary to remove conduits, poles, wires or pipes installed by virtue of this ordinance the removal shall be done at the expense of the Grantee upon the request of the City.

Section 12
This Ordinance shall take effect and be in full force from and after its passage and approval by the City Council. The said Grantee shall specify its acceptance of this franchise in writing, to be filed with the City Auditor and in no event shall this Ordinance be binding on said Grantee until the filing of such acceptance. (Ord. 361; 2007)
AN ORDINANCE OF THE CITY OF RUGBY, NORTH DAKOTA GRANTING A NON-EXCLUSIVE FRANCHISE TO NORTH DAKOTA TELEPHONE CO. FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A COMMUNICATIONS SYSTEM WITHIN THE CITY LIMITS PROVIDED FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Rugby is authorized to grant non-exclusive franchise operations of communications systems within the City rights-of-way; and

WHEREAS, North Dakota Telephone Co., has applied for a franchise to construct, operate, and maintain communications services within the boundaries of Rugby; and

WHEREAS, the terms, conditions, and obligations provided herein are needed to protect the safety and welfare of the citizens of Rugby; and provide for the communications services needs of the City.

NOW, THEREFORE, THE CITY OF RUGBY, NORTH DAKOTA, HEREBY ORDAINS AS FOLLOWS:

Section 1: Purpose
This Ordinance shall establish a non-exclusive Franchise, which constitutes an agreement between the City of Rugby (hereinafter the "City") and North Dakota Telephone Co. (hereinafter the "Operator"). The Operator agrees to construct, maintain, and operate a communications services system for the distribution of telephone service, broadband services, and video service pursuant to the terms of the Franchise. The City agrees to grant all necessary rights and privileges to use public rights of way necessary for the communications services system. This agreement shall, as of the effective date, supersede all existing franchises previously granted by the City of Rugby to Operator, or any of its predecessors, subsidiaries, or affiliated companies.

Section 2: Length of Franchise
The length of this Franchise shall be for a term of 20 years from April 15, 2007 through midnight of April 15, 2027.

Section 3: Service Area
The Operator’s service area shall be the entire area of the City of Rugby, in its present form or in any later reorganized, or enlarged, or re-incorporated form.

Section 4: Liability and Indemnification
Grantee shall, at all times, keep in effect the following types of insurance coverage:
(a) Workforce Liability Insurance upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the City of Rugby, North Dakota.
(b) Property damage liability insurance to the extent of Two Hundred Fifty Thousand and No/100 ($250,000.00) Dollars as to each occurrence and Two Hundred Fifty Thousand and No/100 ($250,000.00) Dollars aggregate, and personal injury insurance to the extent of Five Hundred Thousand and No/100 ($500,000.00) Dollars aggregate. Excess bodily insurance and property damage of One Million and No/100 ($1,000,000.00) Dollars each occurrence and One Million and No/100 ($1,000,000.00) Dollars aggregate. Automobile, bodily injury, and property damage liability combined of One Million and No/100 ($1,000,000.00) Dollars each occurrence.

Operator shall indemnify, protect, and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, for property within the City, or by any act of Operator, its agents or employees.

Section 5: Technical Standards
Grantee shall be governed by technical standards established by the Federal Communications Commission.

Section 6: Operation and Maintenance of System
(a) The Operator shall render efficient service, make repairs promptly, and interrupt
service only for good cause and for the shortest possible time. Such interruptions in so far as possible shall be preceded by notice and shall occur during periods of minimum use of the system, if possible.
(b) All service requests and complaints should be responded to within forty-eight (48) hours of receipt.
(c) If at any time the City, acting through its City board, shall deem it necessary to make any improvements or changes on all or any part of the right of way of the City road which affect a utility located on City highway right of way, then and in such event, the owner of the utility shall within 15 days after written notice from the City chairman or clerk proceed to alter, change, vacate or remove said utility from the City highway right of way so as to conform to said City highway changes and as directed by the City chairman. Such work shall be done without any cost whatsoever to the City and shall be completed within the date specified in said written notice.

Section 7: Emergency Use of Facilities.
In the case of an emergency or disaster, the Operator shall, upon request of the City, make available its facilities to the City for emergency use during the emergency or disaster.

Section 8: Successors or Assigns.
This Franchise shall be binding upon the Operator, its successors, and assigns.

Section 9: Acceptance
This grant of Franchise and its terms and provisions shall be accepted by Operator by the submission of a written instrument, executed and sworn by a corporate office of the Operator before a Notary Public, and filed with the City within sixty (60) days after the effective date of this Franchise.

Section 10: Effective Date
This Ordinance shall take effect five (5) days from the date of publication and adoption by the City. The Franchise granted by this Ordinance shall not be effective until the Operator files written acceptance thereof.

Section 11: Severability
Each section, subsection, or portion of this Ordinance shall be severable if any section, subsection, or portion shall be found to be invalid.

Section 12: Notice
Written notices shall be deemed to have been duly serviced if delivered in person to the individual or the entity for which it was intended, or if delivered by registered or certified U.S. mail to the last business address known to the party who gives notice. All notices and requests shall be address to the City of Rugby, as follows:

CITY:
City of Rugby
Karla Harmel
223 South Main
Rugby, ND 58368

OPERATOR:
North Dakota Telephone Co.
211 22nd St. NW
Devils Lake, ND 58301

Section 14: Franchise Fee
During the term of the rights granted herein, the Grantee shall pay as compensation to the City a sum (Franchise Fee) equal to three percent (3%) of the total Gross Receipts for Grantee’s video services. “Gross Receipts” shall consist of those revenues derived from the monthly service charges paid by subscribers living within the corporate limits of the City for video programming services and premium pay services such as HBO. Gross Receipts shall not include revenues received from installation.
charges, or fees for reconnections, inspections, repairs or modifications, of any installation, equipment rental, or State and Federal taxes relating thereto.

The Franchise Fee shall be payable monthly, within thirty days of the end of each of the Grantee's fiscal month (Ord. 368, 2008)

Section 16: Rates
Operator shall at all times maintain on file with the City secretary a schedule setting forth all rates and charges to be made to subscribers for all communications services.

During the term hereof, the City may regulate rates only if authorized to do so by the Federal Communications Commission regulations and then such regulations shall only be in accordance with the provision of such regulations.

In the event that the City has the authority to regulate the rates, the following procedure shall be used:
(a) Before making any changed in the rates and charges to subscribers for the Operator's communications services, Operator shall file in writing with the City a new proposed rate change at least thirty (30) days in advance of the proposed effective date for such rate change. If the City takes no action to set the proposed rate change for hearing, said proposed rate change shall become effective upon the expiration of the thirty (30) days notice.
(b) If the City wishes to hold a hearing on the proposed rate change, the hearing shall be held within forty-five (45) days of the filing of the proposed rate change by Operator. Following the hearing, the City shall take final action on the proposed rate change within thirty (30) days. (Ord. 363; 2007)
WHEREAS, the City of Rugby is authorized to grant non-exclusive franchise operations of communications systems within the City rights-of-way; and

WHEREAS, Midcontinent Communications, has applied for a franchise to construct, operate, and maintain communications services within the boundaries of Rugby; and

WHEREAS, the terms, conditions, and obligations provided herein are needed to protect the safety and welfare of the citizens of Rugby; and provide for the communications services needs of the City.

NOW, THEREFORE, THE CITY OF RUGBY, NORTH DAKOTA, HEREBY ORDAINS AS FOLLOWS:

Section 1: Purpose
This Ordinance shall establish a non-exclusive Franchise, which constitutes an agreement between the City of Rugby (hereinafter the "City") and Midcontinent Communications (hereinafter the "Operator"). The Operator agrees to construct, maintain, and operate a communications services system for the distribution of telephone service, broadband services, and video service pursuant to the terms of the Franchise. The City agrees to grant all necessary rights and privileges to use public rights of way necessary for the communications services system. This agreement shall, as of the effective date, supersede all existing franchises previously granted by the City of Rugby to Operator, or any of its predecessors, subsidiaries, or affiliated companies.

Section 2: Length of Franchise
The length of this Franchise shall be for a term through midnight of April 15, 2027.

Section 3: Service Area
The Operator’s service area shall be the entire area of the City of Rugby, in its present form or in any later reorganized, or enlarged, or re-incorporated form.

Section 4: Liability and Indemnification
Grantee shall, at all times, keep in effect the following types of insurance coverage:
(a) Workforce Liability Insurance upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the City of Rugby, North Dakota.
(b) Property damage liability insurance to the extent of Two Hundred Fifty Thousand and No/100 ($250,000.00) Dollars as to each occurrence and Two Hundred Fifty Thousand and No/100 ($250,000.00) Dollars aggregate, and personal injury insurance to the extend of Five Hundred Thousand and No/100 ($500,000.00) Dollars aggregate. Excess bodily insurance and property damage of One Million and No/100 ($1,000,000.00) Dollars each occurrence and One Million and No/100 ($1,000,000.00) Dollars aggregate. Automobile, bodily injury, and property damage liability combined of One Million and No/100 ($1,000,000.00) Dollars each occurrence.

Operator shall indemnify, protect, and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, for property within the City, or by any act of Operator, its agents or employees.

Section 5: Technical Standards
Grantee shall be governed by technical standards established by the Federal Communications Commission.

Section 6: Operation and Maintenance of System
(a) The Operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest possible time. Such interruptions in so far as possible shall be preceded by notice and shall occur during periods of minimum use of the system, if possible.
(b) All service requests and complaints should be responded to within forty-eight (48) hours of receipt.
(c) If at any time the City, acting through its City board, shall deem it necessary to make
any improvements or changes on all or any part of the right of way of the City road which affect a utility located on City highway right of way, then and in such event, the owner of the utility shall within 15 days after written notice from the City chairman or clerk proceed to alter, change, vacate or remove said utility from the City highway right of way so as to conform to said City highway changes and as directed by the City chairman. Such work shall be done without any cost whatsoever to the City and shall be completed within the date specified in said written notice.

Section 7: Emergency Use of Facilities.
In the case of an emergency or disaster, the Operator shall, upon request of the City, make available its facilities to the City for emergency use during the emergency or disaster.

Section 8: Successors or Assigns.
This Franchise shall be binding upon the Operator, its successors, and assigns.

Section 9: Acceptance
This grant of Franchise and its terms and provisions shall be accepted by Operator by the submission of a written instrument, executed and sworn by a corporate office of the Operator before a Notary Public, and filed with the City within sixty (60) days after the effective date of this Franchise.

Section 10: Effective Date
This Ordinance shall take effect five (5) days from the date of publication and adoption by the City. The Franchise granted by this Ordinance shall not be effective until the Operator files written acceptance thereof.

Section 11: Severability
Each section, subsection, or portion of this Ordinance shall be severable if any section, subsection, or portion shall be found to be invalid.

Section 12: Notice
Written notices shall be deemed to have been duly serviced if delivered in person to the individual or the entity for which it was intended, or if delivered by registered or certified U.S. mail to the last business address known to the party who gives notice. All notices and requests shall be address to the City of Rugby, as follows:

CITY:
City of Rugby
City Auditor
223 South Main
Rugby, ND 58368

OPERATOR:
Midcontinent Communications
3901 N Louise Avenue
Sioux Falls, SD  57107

Section 14: Franchise Fee
During the term of the rights granted herein, the Grantee shall pay as compensation to the City a sum (Franchise Fee) equal to three percent (3%) of the total Gross Receipts for Grantee’s video services. “Gross Receipts” shall consist of those revenues derived from the monthly service charges paid by subscribers living within the corporate limits of the City for video programming services and premium pay services such as HBO. Gross Receipts shall not include revenues received from installation charges, or fees for reconnections, inspections, repairs or modifications, of any installation, equipment rental, or State and Federal taxes relating thereto.

The Franchise Fee shall be payable monthly, within thirty days of the end of each of the Grantee’s fiscal month.
Section 16: Rates
Operator shall at all times maintain on file with the City secretary a schedule setting forth all rates and charges to be made to subscribers for all communications services.

During the term hereof, the City may regulate rates only if authorized to do so by the Federal Communications Commission regulations and then such regulations shall only be in accordance with the provision of such regulations.

In the event that the City has the authority to regulate the rates, the following procedure shall be used:
(a) Before making any changes in the rates and charges to subscribers for the Operator’s communications services, Operator shall file in writing with the City a new proposed rate change at least thirty (30) days in advance of the proposed effective date for such rate change. If the City takes no action to set the proposed rate change for hearing, said proposed rate change shall become effective upon the expiration of the thirty (30) days notice.
(b) If the City wishes to hold a hearing on the proposed rate change, the hearing shall be held within forty-five (45) days of the filing of the proposed rate change by Operator. Following the hearing, the City shall take final action on the proposed rate change within thirty (30) days.
TITLE 5
HEALTH AND SANITATION

Chapters:

5.04 Board of Health
5.08 Food Inspector
5.12 Garbage
5.16 Cesspools, Weeds and Rubbish
5.20 Poison
5.28 Fluoridation
5.32 Food Service Sanitation Manual
Chapter 5.04

BOARD OF HEALTH

1. For state law authorizing the enactment of health regulations, see N.D.C.C. §40-05-01(45).

Sections:

5.04.010 Established. There is hereby established a city board of health as provided by state law. The officers of the city board of health shall be such as are prescribed by state law. (1942 Rev. Ords. §10-101)

5.04.020 Duties generally of health officer. It shall be the duty of the health officer to carry out all orders of the mayor or council with reference to the sanitary condition of the city; to proceed immediately upon view or complaint being made to make a thorough examination, and cause all nuisances to be removed or abated within a reasonable time and for the purpose of carrying out the provisions of this chapter the health officer shall be permitted at all times from the rising of the sun to the setting of the same to enter any house, store, stable, or other building, with the permission of the owner or occupant of the building, and upon the refusal of permission by the owner or occupant, the health officer shall upon oath lay his cause before the municipal judge by affidavit specifying the refusal of such person and the reason for the health officer desiring to search the premises, such warrant to be issued only upon probable cause, the health officer then, with permission of the owner or occupant or armed with a valid search warrant shall make a thorough examination of the same from cellar to garret; to enter upon all lots and grounds and cause all stagnant water to be drained off, and pools, sinks, drains, privies or low ground to be cleansed and purified and kept in good condition, and to cause all dead animals or other nauseous or unwholesome thing or substance to be buried or removed beyond the limits of the city. (Ord. 139 (part), 1967: 1942 Rev. Ords. §10-102)

5.04.030 Medical assistance for sick persons provided by health officer. It shall be the duty of the health officer to visit and examine all sick persons who shall be reported to him as laboring under, or supposed to be laboring under, or who have contracted any smallpox, cholera, diphtheria or other infectious disease, and under the direction of the mayor or council shall cause such infected person to be removed to such safe or proper place as may be directed by the mayor or council, and cause them to be provided with suitable medical attendance and nurses at their own expense, if they are able to pay the same, but if not, at the expense of the city. (Ord. 139 (part), 1967: 1942 Rev. Ords. §10-103)

5.04.040 Prevention of spreading of smallpox. It shall be the duty of the health officer, when directed by the mayor or council, to cause a notice, printed, or written in large letters, to be placed upon or near any house in which any person may be affected or sick with smallpox, diphtheria, cholera, or other infectious disease, and under the direction of the mayor or council shall cause such infected person to be removed to such safe or proper place as may be directed by the mayor or council, and cause them to be provided with suitable medical attendance and nurses at their own expense, if they are able to pay the same, but if not, at the expense of the city. (Ord. 139 (part), 1967: 1942 Rev. Ords. §10-104)
5.04.050  Deaths to be reported to health officer, it shall be the duty of any person in whose house or under whose care any person shall die, to at once report to the health officer the date of such death, the name, age, sex, nationality, and calling of such deceased. (1942 Rev Ords §10-108)
Chapter 5.08

FOOD INSPECTOR

Sections:

5.08.010 Appointment. The food inspector shall be appointed by the mayor, with the approval of the city council, and shall hold office for a period of two years, or until the expiration of the term of office of the mayor making the appointment, and until his successor is appointed and qualified.

The office of food inspector may be held by either a man or a woman, otherwise duly qualified, and wherever in this article the words, “he or his” occur as referring to such food inspector, then same shall be interpreted as “she or hers”, if the food inspector then in office is a woman. The food inspector may appoint such assistants as may be necessary to carry on the work of his office, but the compensation for such assistants shall be fixed by the city council. (1942 Rev. Ords. §10—201).

5.08.020 Bond. The food inspector shall receive for his services such compensation as the city council may from time to time determine by motion or resolution and payable at such times as the city council may decide. he shall give a bond in the sum of five hundred dollars with sufficient sureties, to be approved by the city council, conditioned for the faithful and impartial performance of his duties as food inspector, and that he will pay over to the city treasurer all money belonging to the city, which may come into his hands and deliver all property, belonging to the city, over to his successor in office; which bond shall be filed in the office of the city auditor. (1942 Rev. Ords. §10-202)

5.08.030 Inspection of meats and food products. The inspector shall perform and discharge all is duties as such food inspector under the direction, supervision, and control of the city council. It shall be the duty of such inspector to inspect all meats, fish, oysters, birds, fowls, vegetables, fruit, and other provisions produced or prepared in, or brought into the city designed for human food and held or exposed for sale or other disposition within the city, in any public or private market, bakery, stall, shop, store, restaurant, hotel, or other place, or by any vendor or street hawker or other individual. (1942 Rev. Ords. §10-203)

5.08.040 Inspection of all places handling food. It shall be the duty of such inspector to visit at frequent intervals each and every public and private market, bakery, stall, shop, restaurant, hotel, store, warehouse, and storehouse in the city, and each and all carts, wagons, sleighs, and vehicles of vendors or street hawkers in, at or about which any meats, fish, oysters, birds, fowls, vegetables, fruits, and other provisions are kept, held, or carried for sale or other disposition as human food, and examine, and carefully inspect all such meats, fish, fowls, vegetables, fruits, or other provisions, and if any unwholesome meats, fish, oysters, fowls, vegetables, fruits, or other provisions so intended for sale or other disposition as human food be found in or about any such public or private market,
bakery, stall, shop, store, restaurant, hotel, warehouse, or storehouse or in any cart, wagon, sleigh, or other vehicle of vendors or street hawkers, to at once give the person in charge of same for the time being, notice to immediately remove the same out of the city or to such place as such inspector shall direct, or to destroy the same, whereupon the person in whose custody and possession the same shall be found to be, shall immediately remove the same out of the city, or such place as the inspector shall direct, or destroy the same as may be directed by the inspector, or said inspector may, if deemed advisable by him, take possession of such unwholesome meats, fish, oysters, birds, fowls, vegetables, fruits, or other provisions so intended for sale or other disposition as human food and destroy the same at the expense of the person in whose custody such unwholesome food or provisions were found.

No person shall be allowed to handle any meats, fish, fowls, vegetables, fruits, or other provisions intended for consumption as human food who is considered afflicted with any infectious or contagious disease, or whose clothing is not in a clean and sanitary condition.

The inspector shall do and perform such other duties as may be required of him by the city council, by ordinance or resolution, or by order of the board of health of the city. (1942 Rev. Ords. §10-204)

5.08.050 Foods to be inspected once a month. It shall be the duty of the inspector as food inspector to inspect not less than once a month, all places where meats, fish, oysters, birds, fowls, vegetables, fruits, or other provisions are handled and offered for sale and any person selling vegetables, fruit, or other provisions under this chapter shall keep the premises, storerooms, ice chests, and cooling rooms in which the provisions mentioned above are kept and any utensils, vehicles, or receptacles by means of which they are handled, in a clean and sanitary condition and protected in such manner that the provisions mentioned be not contaminated with dirt, insects, or other objectionable matter.

Any person having charge of the aforementioned premises, vehicles and utensils, shall at all times permit the inspector free access thereto. (1942 Rev. Ords. §10-205)

5.08.060 Records and reports. The inspector shall keep a record open to the public inspection in which he shall enter the date of all inspections, the results of such inspection and the name of the person who owns the premises so inspected. It shall further be the duty of the inspector to make detailed monthly reports of all the inspections made by him, their results and any other work or duty performed by him, to the city council at their first meeting of each month. (1942 Rev Ords. §10-206)

5.08.070 Unfresh, unwholesome food not to be sold in city. No meats, fish, oysters, birds, fowls, vegetables fruits, or other provisions of any kind not being fresh, sound, wholesome, and safe for human food, shall be brought into the city or offered or held for sale at any public or private market, store, stall, storehouse, or in any other place in the city by any person. (1942 Rev. Ords. §10-207)

5.08.080 Markets to be clean. Every person keeping, maintaining, or being in charge of any public or private market, bakery, stall, shop, store, warehouse, storehouse, cart, wagon, sleigh, or other vehicle in or about which any meats, fish, oysters, birds, fowls, vegetables, fruits, or other provisions are held, kept, stored, or offered for sale or other disposition, shall keep such private store, warehouse, storehouse, cart, wagon, sleigh, or other vehicle in a clean, pure and wholesome condition, and if any such person shall allow or permit the same to be, become or remain unclean, impure, or unwholesome, he shall be guilty of a violation of this chapter. (1942 Rev. Ords. §10-208)

5.08.090 Dealers to allow officers to inspect. Every butcher, grocer, milk dealer, and their agents shall allow the food inspector to freely and fully inspect their cattle and milk, meats, fish, and vegetables held, offered, or intended for sale; and will be expected to answer all reasonable and
proper questions asked by such persons relative to the condition thereof, and of the places where
such articles may be. (1942 Rev. Ords. §10-209).

5.08.100  Unwholesome foods to be reported to inspector. It shall be the duty of every person
knowing of any meats, fish, birds, fowls, vegetables, fruits, milk, or any other articles intended for
human food, being bought, sold or offered for sale, or being in any market or store, public or private, in
the city, or in the possession of any other person and not being sound, healthy and wholesome, for
such food, to forthwith report such facts and the particulars relating thereto, to the inspector. (1942
Chapter 5.12

GARBAGE*

Sections:

5.12.010   Department of sanitation established.  There is established a department of sanitation in the city, to be appointed by the mayor, and confirmed by the city council, which shall be charged with the responsibility of carrying out the provisions of this chapter, and which shall supervise the garbage and rubbish collection system, disposal grounds, and any incinerator or landfill disposal system. (Ord. 170 §1, 1970)

5.12.020   Purpose of chapter.  For maintenance of the public health and sanitation, it is the intention hereof to make the collection, removal and disposal of garbage and rubbish in the city compulsory, and to fix charges therefore commensurate with the cost of collection and disposal of the garbage and rubbish. (Ord. 170 §2, 1970).

5.12.030   Definitions.  “Garbage” as used in this chapter, includes all accumulations of household waste matter, including dry kitchen refuse, meat, vegetable and fruit refuse, and all tin cans. “Rubbish” includes bottles, glass, scraps of iron, wire or other metals, lawn clippings, rags, old clothing, paper, paper containers, old rubber, pieces of wood, boxes, barrels, crates, feathers, weeds, grass, ashes, tree limbs and similar accumulations. (Ord. 170 §3, 1970).

5.12.040   Car body disposal.  Car bodies are not to be considered rubbish and shall not be deposited in the landfill operation. It is the responsibility of the owner to make his own arrangement for disposing of this type of unsightly object. Contractor will haul what he can flatten down, such as refrigerators, fenders, etc. (Ord. 170 §3(a), 1970)

5.12.050   Liquids--Disposal prohibited in land fill.  There shall be no liquid or semi-liquid wastes...
deposited or disposed of in the landfill operation. This includes oil of any kind. (Ord. 170 §3(b), 1970).

5.12.060 Trees—Preparation for disposal. Trees are to be considered rubbish; but no collection will he made of tree trunks or stumps unless arrangements are made with the city contractor, and an extra fee as established by the city contractor. All tree trunks will be cut in lengths not to exceed three feet in length for safety in handling.

Small branches will be picked up in regular collections providing they are tied in bundles and placed on the berm with the plastic bags. The length of tree branches shall be three to four feet in length; failure to have branches Lied will result in the leaving of them by the collector. (Ord. 170 §3(c), 1970).

5.12.070 Building materials. Building materials such as stones, plaster, cement, dirt, concrete, and other construction material shall not be hauled to the landfill site unless special arrangements are made with the contractor or city auditor, and an extra fee as established by the city, paid by the owner, or contractor on the construction project. (Ord. 170 §3(d), 1970).

5.12.080 Animal carcass disposal. No dead carcasses will be allowed to be deposited in the sanitary landfill area. It is the responsibility of the owner to dispose of his own animals, by burying them on his own land by use of a trench. (Ord. 170 §3(e), 1970).

5.12.090 Can requirements. Each property owner or occupant of property shall furnish and keep, in a suitable place upon his premises, one or more metal or plastic garbage cans equipped with close fitting tops, of a capacity of not less than fifteen nor more than thirty gallons each. These cans shall be lined with plastic bag liners. Covers shall be kept on the cans at all times. The cans will be placed on a rack twelve to eighteen inches off of the ground, or on a cement slab at ground level. In the case of buildings containing three or more apartments, the owner shall furnish one can for each two apartments. All loose paper such as newspapers, magazines, etc., will be placed in proper plastic containers so as to prevent their blowing around when placed in the landfill dumping area. All rubbish shall be placed in paper boxes not more than twenty-four inches square, must have a solid bottom, and no box shall be over one hundred pounds in weight. The container shall be replaced by the owner or occupant, when in the opinion of the superintendent they are no longer suitable for use. In the case of a business establishment, paper boxes will or can be used for the disposal of such refuse provided they are tied securely for handling. (Ord. 170 §4, 1970).

5.12.100 Preparation for collection. All kitchen garbage shall be drained of excess water and shall be wrapped in paper before being placed in the plastic containers in garbage cans. All rubbish as defined herein, having been placed in plastic liners, will be placed on the berm or in the alley, day of collection, the collection day to be scheduled by the contractor and each property owner notified of such schedule. In winter season, if the alley should become impassable, garbage will be placed on the berm on collection the day before collection. (Ord. 170 §5, 1970).

5.12.110 Frequency of collection. Frequency of collection for residential areas shall be made as often as is necessary to maintain and preserve the health of the community. Pickup in residential sections will be once a week from October 1 to March 31; and twice a week from April 1 to September 30, unless the residents are notified otherwise. Commercial pickups shall be as per schedule of the truck operator, with no pickups on holidays or Sundays. (Ord. 170 §6, 1970).

5.12.120 City ownership of refuse. Ownership of refuse material set out for collection or deposited at the city disposal grounds shall be vested in the city. It is unlawful for any person, firm or corporation to remove material from the city disposal grounds. (Ord. 170 §7, 1970).
5.12.130 Burning restrictions. No person, firm, association or corporation shall burn or cause to be
burned any paper, garbage, excelsior, straw, hay, leaves, brush, weeds, dry grass, shavings, rags,
barrels, boxes, crates, lumber or other combustible materials or refuse materials in the streets, or
alleys, or on property, except by an approved commercial incinerator and upon approval of the
sanitation committee. Barbecue pits or outdoor fireplaces shall burn charcoal or briquette only. (Ord.
170 §8, 1970)
5.12.140 Collection charge schedule. The monthly fees and charges under each classification for a
calendar month shall be as follows:
In residential areas, for each water meter serving residence or apartment building __________per
month for the first kitchen served and __________for each additional kitchen so served.
(a)
Refuse Collection and Disposal Fees:
Single family
$3.75
Multiple family
3.75 for first
and
2.80 for each
additional
House trailer
3.75 for
first
and
2.80 for each
additional house trailer
Resident hauling
1.00 a
pickup
load
3.00 a truck load
(b)
Nonresidents:
(1)
Private automobile, station wagon . . . . . _______________
(2)
Trailer, wagon, or pickup truck of not
over one ton rated capacity . . . . . . . . . . _______________
(3)
Trailer,
wagon,
or
pickup
truck
of
one
to five tons rated capacity . . . . . . . . . . . _______________
(c)
Hours of dumping: All year--Open Wednesday and Saturday one p.m. to five p.m.
(except Sundays and holidays when the landfill area will be closed).
The city shall fix the fees and charges from time to time, and change such charges as

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5.12.150 Billing of collection charges--Delinquency. The city auditor is authorized to add the garbage disposal charges provided for herein to the charge for water and or sewer services and submit the same on a bill in connection with the water and/or sewer service bills and the city auditor shall be authorized to discontinue services of all the waste collection system if the entire bill shall not be paid, including the bill for garbage collection. In all places where water and/or sewer service is provided, the monthly charges set forth shall be added to and collected as a part of the water and/or sewer bill by the city auditor.

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

No person within the city shall be permitted to refuse to accept such garbage and waste disposal service, and the failure of any person to receive such services shall not exempt him from the payment of charges hereinafter set forth, save and except only those persons residing in areas in which no waste collection service is provided for the entire area; and in such areas where no service is rendered, no charges shall be made. (Ord. 170 §10, 1970).

5.12.160 Collection franchise--Awarding--Bond required. The exclusive collection of garbage and refuse shall be on September 1 and each year thereafter by franchise to a person, firm or corporation, and the franchise shall be awarded by the city council. This franchise, the kind and type of equipment and the integrity of the contractor shall be considered before a final awarding of such franchise. A performance bond of one thousand dollars shall be given and executed by the successful contractor, conditioned upon his faithful performance of the contract. The city council will make inspections of the landfill site at regular intervals to insure that proper methods are being used to conform to the lease with the bureau of land management, from which the land has been secured on a lease proposal. (Ord. 170 §11, 1970)

5.12.170 Landfill site regulations. Requirements as per lease from bureau of land management. The site is to be operated strictly as a sanitary landfill operation. The basic operating regulations will be the North Dakota State Department of Health regulations specifying the minimum requirements for storage, collection and disposal of solid waste. Plus these regulations, the bureau of land management has suggested the following additional special stipulations:

1) All refuse hauled to the dump (whether by city employees, by persons under contract to the city, or by any person with the consent of the city) shall be hauled in enclosed trucks or containers.
2) No liquid or semi-liquid wastes shall be disposed of in the landfill area.
3) The entire tract shall be fenced to exclude livestock.
4) Portable mesh wire fences shall be used to prevent scattering of papers during dumping operation. The fences shall be of sufficient height and sufficiently fine mesh to prevent scattering of papers.
5) The landfill shall be operated as a sanitary landfill dump only. There shall be no uncovered refuse or burning refuse. Exposed refuse should be covered as promptly as proper operations permit and daily by the contractor.
6) Access to the site will be strictly controlled by the city and its contracted sanitarian.
7) No salvaging will be allowed on the site.
8) Each time an area or trench is covered it shall be planted with trees, the season planting, species, etc. will be determined by the district manager of the bureau of land management.
9) There has been considerable interest in the future use of the site as a wildlife habitat. Because of this, we plan to have the landfilled area planted, each time an area becomes filled, with
shrubs and tree species suitable for wildlife habitat. This work will be coordinated with the North Dakota Game and Fish Department and the Soil Conservation Service.

(10) It is anticipated that the maximum finished fill elevation will not exceed six feet above the original elevation of the undisturbed ground surface. (Ord. 170 §12, 1970)

5.12.180 Penalty for violation. Any person, firm or corporation violating any of the terms or provisions of this chapter shall upon conviction be punished according to the provisions set forth in Section 1.01.110. Each day any person, firm or corporation shall violate any of the provisions of this chapter shall constitute a separate offense. (Ord. 170 §13, 1970)
Chapter 5.16

CESSPOOLS, WEEDS AND RUBBISH

Sections:

- 5.16.010 Cleansing and emptying cesspools.
- 5.16.020 Cleansing of privies.
- 5.16.030 Removal of rubbish.
- 5.16.040 Weeds declared nuisance when.
- 5.16.050 Notice to cut weeds.
- 5.16.060 Failure to remove--Expense of removal.

5.16.010 Cleansing and emptying cesspools. It is unlawful for any person or persons to open any cesspool within the corporate limits of the city or to open any other like place within the limits aforesaid for the purpose of cleansing or emptying the same, or for any other purpose, unless such cesspool or other like place has been so cleansed as not to disseminate unhealthy odors, and is empty, except at the following times: between the hours of nine p.m. and seven a.m.

The contents of any such cesspool, or other like place shall only be hauled in tanks or other depositories that will not leak or stop over, and the contents of any such cesspool, or other like place shall not be emptied or deposited at any place within the corporate limits of the city. (1942 Rev. Ords. §10-301)

5.16.020 Cleaning of privies. No privy within the corporate limits of the city shall be emptied or cleaned out at any time except between the hours of ten p.m. and six a.m. and all privies within the corporate limits of the city shall be emptied and cleaned out at least twice in each year. (1942 Rev. Ords. §10-302).

5.16.030 Removal of rubbish. From and after the taking effect of this chapter it shall be and is hereby declared to be a misdemeanor for any person, persons, copartnership, or corporation, owning, being in possession of, or occupying or controlling any premises, real estate, lots, parcels of land or buildings, within the corporate limits of the city, to fail or refuse for the period of ten days to remove any garbage, refuse, offal, ashes, or other unsightly refuse matter or material whatever that may be detrimental to the public health, from such premises, real estate, lots, parcels of land, or buildings to the city dumping ground, after having been notified to do so orally or in writing by the chief of police or any policeman of the city.

No person shall place, strewn, throw, cast, distribute, or deposit, or cause, procure or permit to be placed, strewn, thrown, cast, distributed or deposited in or upon any street, sidewalk, avenue, or alley, gutter, or public ground within the city of Rugby, any paper, dirt, ashes, rubbish, offal, shavings, carcasses, filthy water, straw, hay, manure, or other substance whatever including the sweepings of any building, house, store, shop, or office which shall or may injure or disfigure such street, avenue, alley, sidewalk, or public ground or tend to render same unclean or a nuisance and any person violating this section shall be deemed guilty of a misdemeanor and shall upon conviction be subject to the penalty as hereinafter prescribed.

Provided, that the placing, depositing, or throwing, etc., of any of the substances herein specified upon private property within the limits of the city in such manner that the same may be blown or carried upon the streets, avenues, alleys, and public grounds, in the event that the same are by reason
thereof thrown, cast, strewn, deposited, or distributed upon any of the streets or public grounds, shall be deemed a violation of this section and be punishable upon conviction in the same manner.

In case any of the substances hereinbefore mentioned shall be found remaining or lying upon any alley, street, sidewalk, or public ground within the limits of the city, it shall be the duty of the chief of police, the street commissioner and any police officer of the city forthwith to notify and require, either by written or verbal notice, any person who may have placed or caused or permitted such substance or thing to be placed, thrown, cast, or deposited upon such street, alley, sidewalk, or public around or may suffer the same to lie, or remain upon such street, alley, or public ground to immediately remove such thing or substance or cause the same to be removed therefrom.

In case such person or persons shall neglect or fail to remove such substance or thing within twenty-four hours after being so notified it shall be the duty of the aforementioned officers to remove or cause the same to be removed at the expense of such person, such expense to be recovered by civil action, to be prosecuted in the name of the city.

It shall be the duty of each of the aforementioned officers to make complaint against any violator of this chapter before the municipal judge, and any of said officers knowingly neglecting or failing to do so, shall be deemed guilty of a misdemeanor and subject to the penalty as defined in Section 1.07.110 and shall be removed from office by the mayor. (1942 Rev. Ords §10-303).

5.16.040 Weeds declared nuisance when. All weeds growing within the limits of the city are hereby declared to be a common nuisance and it shall be the duty of every person owning or occupying any lands or premises upon which such weeds are growing to destroy, or cause the same to be cut within not more than ten days after notice as provided in Section 5.16.050 so to do shall have been given; provided, that no owner or occupant shall be required to destroy or cut such weeds more than twice in any one year; and providing further, that in any event it shall be the duty of every person owning or occupying any lands or premises upon which weeds are growing to destroy or cause the same to be cut between the first day of July and the first day August of every year. (1942 Rev. Ords. §10-304).

5.16.050 Notice to cut weeds. The notice prescribed in Section 5.16.040 may be given by the mayor, chief of police, or street commissioner and such notice may be either oral or in writing and shall be given to the owner and also the occupant, if the premises are occupied; provided that if the owner of such premises is not a resident of the city such notice may be given by registered mail, and provided further, that if the residence of such owner cannot be found, service upon the occupant shall be deemed sufficient service upon him, and in the event that the premises are unoccupied and the residence of the owner cannot be ascertained service of the notice may be made by posting a copy thereof in a conspicuous place upon the premises.

Any owner or occupant who shall have been served with notice to destroy or cut weeds as hereinbefore prescribed and who shall fail to comply therewith within a period of ten days after the service of such notice, and any owner or occupant of any lands or premises within the city who shall refuse, fail, and neglect either to destroy or cut or cause to be destroyed or cut any weeds, whether notice so to do has been given or otherwise between the first day of July and the first day or August of every year shall be deemed guilty of a misdemeanor and shall be subject to the penalty as prescribed in Section 1.07.110. (1942 Rev. Ords. §10-305).

5.16.060 Failure to remove—Expense of removal. Whenever any individual, firm, or corporation owning or occupying any lands or premises within the limits of the city shall fail, neglect, or refuse to comply with any of the provisions of this chapter for more than ten days after the first day of August, or more than ten days after service of the notice shall have been given as provided in Sections 5.16.040
and 5.16.050, then it shall be the duty of the street commissioner to proceed forthwith to cause any such nuisance to be abated by cutting or destroying said weeds, and in all cases he shall proceed to assess and collect the expense of the abatement of such nuisance upon the premises or property upon which the same may be found or upon which such expenses may be chargeable as in the case expenditures for building sidewalks or by suit in the name of the city against the owner or occupant of such lot or premises or either or both of them.

It shall be the duty of the street commissioner to report the amount of such expenses to the council in writing, which report shall be sworn to and contain a description of the premises chargeable therewith and the names of the owner or owners when known, and the name of the occupant of such premises if the premises are occupied and shall state whether or not any action or proceeding has been instituted and the nature thereof to collect such expense and whether or not any part or portion of such expense has been collected, and in the event that such expense or any portion thereof has not been collected further proceedings in the assessment and collection of such expenses shall be then had as is required in the assessment and collection of the expenditure for sidewalks, repairs, or as the council may direct. (1942 Rev, Ords. §10-306).
Chapter 5.20

POISON

Sections:

5.20.010 Sale of poison.

5.20.010 Sale of poison. It is unlawful for any person within the city to vend, sell, give away, or deliver any deadly poison, knowing the same to be such, without marking the same in plain, legible, printed characters: “POISON.” (1942 Rev. Ords. §10-307)
Chapter 5.28

FLUORIDATION

Sections:

5.28.010 Authorized.

5.28.010 Authorized. From and after the adoption, approval and publication of Ordinance 84 an(1 the approval of the program by the North Dakota State Department of Heath, and until this chapter shall be repealed, the municipal water supply of the city of Rugby, North Dakota, shall be treated with fluorides in such quantities and in such manner and with such equipment as shall be from time to time approved by the North Dakota State Department of Health, for the promotion, protection and preservation of the general health and welfare of the residents of the city. (Ord. 84 §1, 1958)
Chapter 5.32

FOOD SERVICE SANITATION MANUAL

Sections:

5.32.010 Part V adopted.

5.32.010 Part V adopted. There is hereby adopted Part V of the Food Service Sanitation Manual of the U.S. Public Health Service, entitled “United States Public Health Service Food Service Sanitation Ordinance and Code (1962 Recommendations)” of which a copy is now on file in the office of the city auditor, and the same is hereby adopted as fully as if set out in length herein. (Ord. 192, 1972).
Title 6
Animals

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Chapter 6.04

DOGS & CATS

Sections:

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6.04.150 Limitations on number of animals
6.04.160 Animals known to have bitten a person
6.04.170 Animals Suspected of Being Rabid

6.04.010 Definitions. As used in this chapter, the following words are defined as follows:

(1) “Dog” means both male and female;
(2) “Cat” means both male and female;
(3) “Owner” means any person or persons, firm, association, or corporation owning, keeping, or harboring a dog or cat;
(4) “At large” means off the premises of the owner and not under the control of the owner by lease, cord or chain. (Ord. 181 §1, 1971; Ord. 137 §1, 1967: 1974 Rev. Ords. §6-101; Ord 360, 2007).

6.04.020 Registration required - Fees. All dogs and cats kept, harbored or maintained by their owners in the city in excess of thirty (30) days per year, not consecutive, shall be registered if over six months of age within the thirty (30) days the animal is located inside the municipality boundaries. Dog and cat registrations shall be issued by the city auditor free of charge. The owner shall state at the time of registration upon printed forms provided for such purpose, their name, address, telephone number, the breed, color and sex of the animal, and the date of its last rabies inoculation and rabies tag number. No registration or renewal of registration shall be acceptable unless a certificate signed by a qualified veterinarian is filed with the application, showing that the animal described in the application has been inoculated against rabies. The provisions of this section shall apply to dogs or cats whose owners are nonresidents temporarily within the city in excess of thirty (30) days per year, but shall not apply to dogs or cats brought into the city for participation in shows. The registration herein provided for shall be in force regardless of the date of its issuance until the first day of January each year. Licenses shall be issued for periods of one year, or portion thereof depending on expiration of the rabies certificate. (ord. 423 (part), 1979; Ord. 137 §2, 1967: 1942 Rev. Ords. §6-102; Ord 360, 2007) (Ord 394, 2014)

6.04.030 Tag. Upon the animal’s registration and compliance with the provisions in this chapter, the city auditor shall issue to the owner a tag, which shall be evidence of such registration. The tag shall have stamped thereon the year for which it is issued and a number. Every owner should provide each animal registered with a collar to which the tag can be affixed so if the animal is lost it can be traced back to its owner through the tag number. If the owner chooses not to provide the animal with a collar, a microchip embedded under the skin will be an acceptable alternative. In case a tag is lost or destroyed, a duplicate may be issued by the city auditor for a $1.00 fee. Tags shall not be transferable from one animal to another. (Ord. 423 (part), 1979: Ord. 137 §3, 1967: 1942 Rev. Ords. §6-103; Ord 360, 2007) (Ord 394, 2014)
6.04.040  Running at large.  
(A) No owner or keeper of an animal shall permit such animal to run at large at any time upon the streets, alleys, sidewalks, public places, public ways, school grounds, or upon the private premises of any person other than the owner or keeper of such animal without permission. (Ord 394, 2014)  

(B) Any person in violation of this section shall be issued a complaint by the chief of police or his designated animal control representative and assessed the following fines: 

First Offense:  
(1) If animal is registered and wearing city tag, warning plus impoundment fees;  
(2) If animal is registered and not warning city tag, twenty-five dollars plus impoundment fees;  
(3) If animal is not registered, one hundred dollars ($100) plus impoundment fees. (Ord 394, 2014)  

Second Offense.  
(1) If animal is registered and wearing city tag, fifty dollars plus impoundment fees or disposition of the animal (owner’s choice);  
(2) If animal is registered and not wearing city tag, one hundred dollars ($100) plus impoundment fees or disposition of the animal (owner’s choice). (Ord 394, 2014)  

Subsequent Offenses:  
(1) If animal is registered and wearing city tag, one hundred dollars plus impoundment fees or disposition of the animal (owner’s choice);  
(2) If animal is registered and not wearing city tag, two hundred fifty dollars ($250) plus impoundment fees or disposition of the animal (owner’s choice). (Ord 394, 2014)  

Each additional offense, the fine will double or disposition of the animal (owner’s choice).  

(C) The animal need not be apprehended and placed in confinement, but has only to be reported running at large by any private citizen of the city or any city employee, who must positively identify the animal. (Ord. 270 (part), 1982; Ord. 243 (part), 1979; Ord. 240, 1978; Ord. 181 §2, 1971; Ord. 137 §4, 1967; 1942 Rev. Ords. §6-104; Ord 360, 2007).  

(C1) The Chief of Police or his designee shall investigate a complaint of an animal reported to be running at large and complete an investigative report. Based on this investigation the Chief of Police or his designee shall cite the owner or responsible party of an animal at large if the investigation so warrants. (Ord. 394, 2014)  

(C2) Any private citizen of the city or any city employee may sign a complaint for an animal running at large if the complainant can positively identify the animal and knows of the animal’s residence, and at which time the complaint will be issued to the owner for appearance before the municipal judge for disposition. (Ord. 270 (part), 1982; Ord. 243 (part), 1979; Ord. 240, 1978; Ord. 181 §2, 1971; Ord. 137 §4, 1967; 1942 Rev. Ords. §6-104; Ord 360, 2007) (Ord. 394, 2014)  

6.04.050  Dogs and cats declared to be a nuisance. Any dog or cat within the city is a public nuisance if such dog or cat:  

(1) Is a dog or cat with no identifiable owner;  
(2) Destroys any property not the property of the owner or keeper;  
(3) If a dog or cat has not been inoculated against rabies as required.  
(4) Any dog or cat that bites a person, unless the bite was provoked or was in the line of duty for such animal as may be determined by the officer involved or the court as necessary;  
(5) Frightens, annoys, barks at, or chases any person or vehicle without cause. (Ord 394, 2014)
(6) If a female dog or cat is in heat, not on the premises of the owner or keeper. (Ord. 243 (part), 1979; Ord. 137 §5, 1967; 1942 Rev. Ords. §6-105).

(7) Any dog or cat which has not been properly inoculated for rabies must have rabies inoculation immediately administered by a licensed veterinarian prior to release to the owner.

6.04.060 Impoundment. It is the duty of the animal control officer to cause apprehension of any dog or cat running at large contrary to the provisions of Section 6.04.040 or any dog or cat found to be a public nuisance as provided in Section 6.04.050 and to impound such dog or cat in the city pound or other suitable place. The animal control officer or such other official as may be designated upon receiving any dog or cat shall make a complete registry entering the breed, color, and sex of such dog or cat, and whether registered in the city. If registered, they shall enter the name, address, and telephone number of the owner and the number of the tag. The animal control officer shall make all necessary attempts to find the owner of the impounded dog or cat, especially if registered with the city. (Ord. 270 (part), 1982; Ord. 243 (part), 1979; Ord. 137 §6, 1967; Ord 360, 2007).

(A) No animal shall be released to the owner until proof of city licensing, current vaccines are presented and fees and/or fines are paid by the owner. Once notified that an animal has been impounded and the owner refuses to retrieve the animal, the owner may be charged under city ordinance 6.08.040 (abandonment). Along with any fine assessed by the city magistrate, the owner will be assessed any fees and expenses due the animal veterinary clinic. (Ord. 394, 2014)

6.04.070 Notice to owner - Redemption. Not later than the day after the impounding of any dog or cat, the owner shall be notified, or if the owner of the dog or cat is unknown, written notice shall be posted for three days at the city pound, and the police headquarters in the city, describing the dog or cat and the place and time of taking. The owner of any dog or cat so impounded may reclaim such dog or cat upon registration, proof of rabies vaccination, a $20.00 handling fee to the city, and all costs and charges incurred by the impoundment facility for the impounding and maintenance of the dog or cat. (Ord. 243 (part), 1979; Ord. 137 §7, 1967; Ord 360, 2007) (Ord 394, 2014)

6.04.080 Disposition of unclaimed dogs and cats. It shall be the duty of the animal control officer or other official designated by the city council to keep all dogs and cats so impounded. The animal control officer or other official shall post notice as provided. Any dog or cat not wearing a city tag that is impounded and kept for a period of three days and is not claimed by its owner shall be deemed a stray and shall be disposed of at the discretion of the city. (Ord. 243 (part), 1979; Ord. 137 §8, 1967; Ord 360, 2007).

6.04.090 Breeding kennels for dogs. A kennel for breeding dogs shall be construed to mean any place where more than one female dog is kept for breeding purposes and where the enterprise of breeding dogs is carried on for commercial purposes or profit, and the maintaining within the city of a kennel, as herein defined, is hereby prohibited. (Ord 360, 2007).

6.04.100 Rabies. The owner of any dog or cat which has contacted rabies, or which has been subject to the same, or which is suspected of having rabies, or which shall have bitten or scratched any person shall, upon demand of the police department, of the city produce and surrender up such dog or cat to such department to be held in quarantine for observation for a period determined by a licensed veterinarian. If upon examination any dog or cat should prove to be infected with rabies, such dog or cat shall be disposed of as directed by such officer. (Ord. 137 §10, 1967; Ord 360, 2007).

6.04.110 Keeping a rabid dog or cat - Failure to report. It shall be unlawful for any person to knowingly keep or harbor any dog or cat infected with rabies, or any dog or cat known to have been bitten by a rabid animal, or who fails to report to the police or health department the existence of a dog or cat which he knows to be so infected. (Ord 360, 2007).

6.04.120 Vicious dog or cat defined. A vicious dog or cat is hereby defined as being a dog or cat which has bitten or scratched any person causing injury, while the person bitten or scratched was not doing damage or injury to any person or property of such owner, or an animal acting dangerous, aggressive, and liable to attack or bite anyone on a public street, sidewalk, parking lot, or public property. (Ord. 137 §12, 1967; Ord 360, 2007) (Ord 394, 2014)
(A) Any animal bite which occurs within the city shall be investigated by the Chief of Police or his designee. If the investigation determines that an animal bite did occur and that there may be a vicious dog or cat (or animal) within the City the Chief of Police shall submit a press release to the local city newspaper and local radio station in reference to the incident including and limited to the following information: (Ord 394, 2014)
   1. Date and time of occurrence;
   2. Age of victim;
   3. Address or location of incident;
   4. Description of animal;
   5. Current location of animal.

(B) The Chief of Police shall make a determination and refrain from such notification if such notification would hinder an ongoing investigation. (Ord 394, 2014)

6.04.130  Keeping vicious dog or cat. No person shall keep, harbor, or shelter a vicious dog or cat as defined in Section 6.04.120 within the city. (Ord. 137 §13, 1967; Ord 360, 2007).

6.04.140  Seizure and impounding of vicious dogs or cats. Whenever any person makes a complaint, that any dog or cat is a vicious dog or cat within the terms of this chapter having bitten or scratched a person under the circumstances herein set forth, the complaint shall be investigated by the Chief of Police or the Chief of Police’s designee and an investigative report shall be completed and forwarded to the City Attorney. If a complaint is filed by the City Attorney with the municipal judge, the municipal judge shall issue a warrant for the arrest of the owner of such dog or cat who shall be brought before the municipal judge for trial upon such charges as in other cases. If such person is found guilty, the municipal judge, in addition to other penalties provided herein, shall issue an order directing the owner, to forthwith surrender such dog or cat to the police department and failure to do so shall constitute a violation of this chapter. In the event an owner fails to surrender such dog or cat, such dog or cat shall be seized by the police. Whether the dog or cat is surrendered or seized, the dog or cat shall be impounded in the city dog pound for a period of ten days, during which time the owner of the dog or cat may, if he chooses, make arrangements to remove the dog or cat from the city, and if he fails to do so within the time then such dog or cat shall be destroyed. (Ord. 137 §14, 1967; Ord 360, 2007) (Ord 394, 2014)

(A) Instead of a formal complaint before the municipal judge, and after an investigation where probable cause has been made that the animal is vicious, the animal control officer and/or a police officer may issue a citation containing a notice to answer to the violation or charge in the municipal court at a time no later than thirty (30) days after the alleged violation. Upon promising to appear at the time specified in the citation, the person charged shall be released by the charging officer. If the person charge refuses to sign the promise to appear, he may be arrested or summoned to appear in the municipal court. The willful failure of a person to honor his written promise to appear shall constitute a separate offense of “contempt of court”.

6.04.150  Limitation of number of animals – No person shall harbor or keep more than a combination of four (4) dogs or cats, within any household located in the City of Rugby. New litters have sixteen (16) weeks from date of birth to be given away, sold or adopted.

6.04.160  Animals known to have bitten a person. Any animal that bites a person shall be quarantined at the city pound or contracted pound for a period of ten (10) days at the owner's expense. After such quarantine, the animals may be released to the owner with a certification of health from a licensed veterinarian. The owner has the option to euthanize the animals immediately and submit it to a state approved lab for testing at the owner's expense.

(a) If the biting animal does not have a city license and the owner is not known, the animal may be euthanized immediately and submitted to a state approved lab for testing.
6.04.170 Animals Suspected of Being Rabid. If the city has probable cause to believe a domestic animal has rabies, it shall be euthanized immediately and submitted to a state approved lab for testing with the owner having no right of redemption during the impoundment period.
Chapter 6.08

CONTROL AND INSPECTION

Sections:

6.08.010 Keeping of Certain Animals Prohibited
6.08.020 Pit Bull Dogs: Prohibited
6.08.030 Cruelty to Animals
6.08.040 Abandonment

6.08.010 Keeping of Certain Animals Prohibited – No person shall keep horses, mules, cattle, sheep, goats, fowl, poultry, livestock, swine, bears, feline creatures other than domestic house cats, snakes, wolves, alligators, crocodiles, rabbits, bees, scorpions, ferrets, skunks, foxes, porcupines, raccoons or other animals common to the wild, within the city; however, this section shall not be deemed to apply to saddle horses being ridden or lead in a parade or other ceremony or theatrical production. Violation of this section may be treated as a nuisance under NDCC Section 40-05-01(44).
(Ord. 382 part, 2012)

6.08.020 Pit Bull Dogs: Prohibited – It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Rugby, North Dakota any pit bull dog. “Pit Bull Dog” is defined to mean:
  a. The bull breed of dog;
  b. Staffordshire bull terrier breed of dog;
  c. The American pit bull terrier breed of dog;
  d. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers;
  e. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terrier, or a combination of any of these breeds.
  f. Any licensed and vaccinated pit bull, as defined above, residing within city limits as of December 5, 2011, shall be deemed grandfathered in and be exempt from the above prohibiting ordinance. (Ord. 394, 2014)

6.08.030 Cruelty to Animals – No person in the city shall torture or cruelly treat any animal. Any person, firm or corporation violating this ordinance shall upon conviction, be punished by a fine not less than one ($100) dollars and not more than five ($500) dollars.

6.08.040 Abandonment – No person in the city shall abandon any animal. Any person, firm or corporation violating this ordinance shall upon conviction, be punished by a fine not less than one ($100) dollars and not more than five ($500) dollars. (Ord. 377, 2011; Ord. 382, 2012)

NOTE: Neglect of and Cruelty to Animals is described in N.D.C.C. 36-21.2. (Ord. 394, 2014)
TITLE 8
INTOXICATING LIQUOR*

Chapters:

8.04 Beer Licenses
8.08 Liquor Licenses
Chapter 8.04

BEER LICENSES

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* For state law as to the regulation and licensing of alcoholic beverages, see N.D.C.C. §40-05-01(29). See also, N.D.C.C. §5-03-03.

8.04.010 Beer defined. “Beer” as used in this chapter shall be construed to be of such alcoholic content as is now or may be hereafter defined by the Act of Congress of the United States or the legislature of North Dakota. (1942 Rev. Ords. §5-101)

8.04.020 Retail sale of beer defined. “Retail sale of beer” includes all sales of beer except sales made for purposes of resale. (1942 Rev. Ords. §5-102).

8.04.021 Eating establishment defined. “Eating establishment” means a restaurant or other commercial establishment that is licensed to engage in the sale of alcoholic beverages at retail pursuant to state and local law, and which derives fifty percent or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages. (Ord. 292 §1, 1987)

8.04.030 License required. It is unlawful for any person, firm or corporation to engage in the sale of beer as defined herein within the city without first obtaining a license so to do as provided in this chapter. (1942 Rev. Ords. §5-103)
8.04.040  **Eligibility for license.** Any person, firm, corporation or Limited Liability Company (L.L.C.), partnership or association, club or lodge, as hereinafter defined, having a bona fide residence in and being a citizen of North Dakota and engaged in any legitimate and lawful business, may engage in the retail sale of beer as described in Section 8.04.020 in the city under the restrictions as herein provided. “Club or lodge” means and includes any corporation or association organized for civic, fraternal, social or business purposes, or for the promotion of sports. (Ord. 322, 1995)

8.04.050  **Application--Fee.** Any person, firm or corporation within the class defined in Section 8.04.040 may obtain a license to sell beer within the city by executing under oath and filing with the city auditor a written application therefor on forms provided by the city auditor a written application therefore on forms provided by the city auditor setting forth the name, citizenship and place of residence of the applicant and the legal description of the premises where it is proposed to sell. The application must also show the age of the applicant if an individual, the name, place of residence, citizenship and age of each partner if the applicant is a partnership. If the applicant be a corporation the application must show the name and address of each officer, together with the date of the charter and the state of incorporation. There shall also be incorporated in such application the following words:

“The applicant herein does hereby consent that the Mayor and any police officer of the city or any person or persons duly authorized by the City Council may enter upon the premises described in this application at any hour of the day or night, and that they shall have free access for the purpose of inspecting said premises and the records of this applicant relating to the purchase and sale of beer, and applicant does hereby waive any and all rights that he may have under the Constitution of the United States or the Constitution of the State of North Dakota relative to searches and seizures without issuance of a search warrant, and the applicant does hereby agree that such immunities will never be claimed by him, and that such search, seizure, and inspection may be made at any time without a search warrant.”

The applicant shall also furnish as part of the application satisfactory proof that the applicant is duly authorized to sell beer at the location stated pursuant to the license or permit from the United States and North Dakota. The application shall be accompanied by the sum of fifty dollars as an off sale license fee. (1942 Rev. Ords. §5-105)

8.04.060  **Issuance of license.** The city auditor shall submit the application to the city council for approval at its next meeting. If approved, the city auditor shall issue to the applicant a receipt showing the date and amount paid and by whom and for what location, which shall constitute the license. (1942 Rev. Ords. §5-106)

8.04.070  **Display of license--Records of city auditor.** The license must be displayed at all times in a prominent place on the premises described therein. Each license must be given an identification number and a permanent record thereof must be kept by the city auditor showing the name and address of the licensee and the legal description of the place licensed. (1942 Rev. Ords. §5-107)

8.04.080  **On premises license.** The serving or consumption of beer on the premises licensed is declared to be unlawful unless the licensee thereof obtains an on premises license as provided in Section 8.04.090. (1942 Rev. Ords. §5-108)

8.04.090  **Obtaining on premises license--Fee.** If the applicant mentioned in the preceding sections of this chapter desires to serve or permit the consumption of beer at the place licensed, such applicant shall so state in the application and shall pay an additional fee of one hundred dollars therefore at the time of the filing of such application, unless such applicant shall be a club or lodge in which case the additional fee shall be ten dollars. Additionally, any eating establishment holding on premises license that desires to serve beer and wine on Sunday in accordance with Section 8.04.191 of this chapter
shall be required to pay an additional fee of one hundred dollars per year. (Ord. 292 §2, 1987: Ord. 7 (part), 1945: 1942 Rev. Ords. §5-109).

8.04.100 Term of beer license. All licenses provided for shall terminate on December 31st of each year unless previously terminated or revoked as provided in Sections 8.04.160 and 8.04.170. (1942 Rev. Ords. §5-110).

8.04.110 Short term license. The annual license fee provided for in Section 8.04.050, as the case may be, shall be paid in full at the time of filing of the application and shall be for the term expiring December 31st thereafter. No short term license fee allowance shall be granted nor shall any sum other than the full annual license fee be collected even though the applicant file his application after a portion of the calendar year has expired. (1942 Rev. Ords. §5-111).

8.04.120 Fee to be returned if application denied. If the application for a license provided in this chapter be denied, the auditor shall return to the applicant on demand the amount deposited by the applicant with such city auditor as a license fee. (1942 Rev. Ords. §5-112).

8.04.130 License issued to owners only. No license shall be issued to any person, firm, or corporation engaged in business as the representative or agent of another. The license may be issued only to the owner or owners of the business being conducted at the location sought to be licensed. (1942 Rev. Ords. §5-113)

8.04.140 Nontransferable. No license issued under the provisions of this chapter shall be transferable and any attempt to do so shall constitute a violation of the provisions of this chapter. (1942 Rev. Ords. §5-114).

8.04.150 Zone within which license may be granted. The following blocks in the city are hereby designated as the zone within which a beer license may be granted:

All of blocks six, seven, ten, and eleven of the original townsite of the city. 4942 Rev. Ords. §5-115).

8.04.160 Termination of licenses. The license provided for in this chapter shall terminate on December 31st. Next following the date of issuance, or such shorter term as may arise by reason of the revocation of such license for cause which shall include, among other grounds, the following:
1) The death of the licensee;
2) When the licensee ceases business at the location licensed;
3) When the licensee be adjudged bankrupt;
4) When the licensee be convicted of violating any of the provisions of this chapter;
5) When the licensee ceases to be a legal and bona fide resident and citizen of North Dakota;
6) When the license or permit of the licensee from the United Stated Government or North Dakota to sell beer at the location licensed has terminated or been revoked;
7) When the licensee has been convicted of a felony under the laws of the United States or under the laws of one of the several states;
8) When the business of the licensee at the location licensed shall be conducted in violation of the health or sanitary regulations or other ordinances of the city;
9) When the licensee, if an individual, or one of the partners, if the licensee be a partnership, or one of the officers, if the licensee be a corporation be convicted in the police magistrate’s court of this city of drunkenness or disorderly conduct, or if an appeal be taken from such conviction, then when such conviction be sustained by the higher court of courts;
10) When the licensee allows “spiking” of beer with alcoholic liquor in his establishment;
(11) Such causes as heretofore enumerated and described shall not be deemed to be exclusive; and such license may he terminated at any time, by the city council, and the license revoked for any cause deemed by the city council to be sufficient cause and justified by reason of public health or public morals, such action of the city council to be subject only to review by the courts of the state.

When any license is terminated or revoked for cause, the licensee or those claiming under him shall not be entitled to any return of any portion of the license fee previously paid to the city. Provided, however, that the city council may in its discretion, refund to the licensee or those claiming under him a portion of the unused license fee equal to one-twelfth of the license fee paid for each full month remaining of the unexpired term of said license, when such licensee shall cease business at the licensed premises by reason of his death or the destruction by fire or otherwise of his place of business, or for such other reason as the council may in its sole discretion deem to be without culpability on his part. (Ord. 199, 1973; 1942 Rev. Ords. § 5-116).

8.04.170 Disposition of license fees. All license fees collected by the city auditor shall be delivered to the city treasurer and by him credited to the general fund of the city. (1942 Rev. Ords. § 5-117).

8.04.180 Sale of beer in street. The sale or serving or consumption of beer as defined in this chapter upon or across any street, alley, or public way is prohibited. (1942 Rev. Ords. § 5-118).

8.04.190 Sales to certain persons and during certain hours unlawful. Except as permitted by Section 8.04.191 of this chapter, anyone who dispenses 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 so dispenses or permits such consumption on Good Friday, Thanksgiving Day, Christmas Day, or after six p.m. on Christmas Eve, or between the hours of one a.m. and eight p.m. on the day of any statewide special, primary or general election is guilty of a misdemeanor. (Ord. 292 § 3, 1987: Ord. 285 § 1, 1986: Ord. 263, 1981: Ord. 207 (part), 1973: Ord. 130 (part), 1965: Ord. 112 (part), 1962: 1942 Rev. Ords. § 5-119).

8.04.191 Sale of beer and wine by eating establishments on Sunday. Any eating establishment, as defined in Section 8.04.021 of this chapter holding the appropriate license upon payment of the appropriate license fee as set forth in Section 8.04.090 of this chapter is authorized to dispense and sell beer and wine in conjunction with the sale of prepared meals on Sunday between the hours of twelve noon and nine p.m. for consumption only in that part of the eating establishment habitually used for the serving of prepared meals. (Ord. 292 § 4, 1987).

8.04.200 Music on premises. It is lawful, and deemed to be in conformity with the laws of North Dakota, for any person to permit dancing, or to allow in or on any premises where beer or intoxicating liquor is sold, the rendition of any music, live or mechanical, of any kind whatsoever, during the time and the hours contemporary with legal and lawful times and hours during which the licensed premises through and by its owner, agent, employee or other designated person may legally dispense beer or intoxicating liquor. (Ord. 133 (part), 1966: 1942 Rev. Ords. § 5-120).

8.04.210 Toilet requirements for on sale establishments. 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 where the foregoing requirements, or any other health ordinance or regulation, is not, at all times, strictly observed. (1942 Rev. Ords. § 5-121).

8.04.220 Licensee to conduct business in orderly manner. A licensee under this chapter shall at all
times conduct and maintain his place of business in a clean, orderly, and respectable manner. (1942 Rev. Ords. §5-122).

8.04.230 Number limited--Classes of liquor licenses.

(a) Class A: To any club or lodge as defined, an off-sale beer and liquor license. (Members only.)

(b) Class B: One off-sale beer and liquor license for each three thousand five hundred residents and one additional license for each two thousand people in excess of three thousand five hundred residents or a major fraction thereof in the city.

(c) Class C: Five on-sale and off-sale beer and liquor licenses and one additional license for each two thousand people in excess of three thousand five hundred residents.

(d) Class D: Each hotel or motel providing a minimum of eighteen guest rooms with continuous service and dining facilities, each to have a seating capacity of at least fifty seats, exclusive of the liquor facility, as a part of such motel or hotel operation, with a full menu normally provided by the restaurant maintained and open six days a week, or lounges providing the restaurant services above described with a seating capacity of at least seventy-five seats exclusive of counter seating shall be entitled to Class D license(s) as follows:

(1) An on-sale and off-sale liquor license, to any one person, firm or corporation; or

(2) A separate on-sale liquor license and a separate off-sale liquor license may be issued to separate entities so long as both entities do business within the motel or hotel complex;

(3) A motel or hotel complex having only one license under this provision shall be required to have an on-sale and off-sale liquor license.

(e) Class E: Unlimited Off-sale beer or sparkling wine license to each restaurant provided such restaurant is constructed so that minors not accompanied by adults are seated in an area separated from the area where beer or wine is served. (Ord. 295 §1, 1983: Ord. 266 (part), 1981; Ord. 231, 1977: Ord. 200, 1973: Ord. 158 (part), 1967; Ord. 367; 2007)

Class E: One on-sale or sparkling wine license to each restaurant or establishment specializing in the sale of pizza or other specialty goods in which there is a seating capacity of at least seventy-five seats, exclusive of counter seating and such restaurant must be constructed so that minors not accompanied by adults are seated in an area separated from the area where beer is served. (Ord. 295 §1, 1983: Ord. 266 (part), 1981; Ord. 231, 1977: Ord. 200, 1973: Ord. 158 (part), 1967)

8.04.231 Serving or consumption defined.

(a) “Consumption” as used in this chapter shall be construed to be the act or process of consuming.

(b) “Serving” as used in this chapter shall be construed to be the use of beer as defined by this chapter in the places as defined by the ordinances of the city. Places shall include property owned by the Rugby Special School District Number 5. (Ord. 257, 1979)
Chapter 8.08

LIQUOR LICENSES

Sections:

8.08.010 Definitions.
8.08.020 License required.
8.08.030 Types of licenses.
8.08.040 Fees.
8.08.050 Term of license.
8.08.060 Application for license.
8.08.070 Licensee consent to police inspection.
8.08.080 Investigation of fitness.
8.08.090 Eligibility for license.
8.08.100 License not to be granted when personal property taxes delinquent.
8.08.110 Nontransferable—City council to approve location changes.
8.08.120 One license to a person.
8.08.130 License to be posted.
8.08.140 Location of premises.
8.08.150 Disposition of license fees.
8.08.160 Consumption of liquor on premises.
8.08.170 Revocation of licenses.
8.08.180 Hours and time of sale.
8.08.190 Selling or dispensing intoxicating liquor.
8.08.200 Gambling devices not permitted in places where intoxicating liquor is sold.
8.08.210 Licensee responsible for conduct of place of business.
8.08.220 Booths and windows.
8.08.240 Stamp tax required—Liquor to be purchased from licensed wholesalers.
8.08.250 Sanitary requirements.
8.08.260 Number limited—Classes of liquor licenses.
8.08.261 Sale of intoxicating liquor or liquor in street.
8.08.262 Serving or consumption defined.

8.08.010 Definitions. (1) “Intoxicating liquor” and “liquor,” whenever used in this chapter, mean and include such alcohol or alcoholic beverages as defined by the Liquor Control Act of North Dakota or any amendments or acts supplementary thereto.

(2) “Off sale” means the sale of intoxicating liquor in original packages for consumption off or away from the premises where sold, and a license permitting off sales shall authorize the person or persons named therein to make such off sales at the place designated in such license and not elsewhere.

(3) “On-sale” means the sale of intoxicating liquor for consumption by the drink on the premises where sold only and not elsewhere, and shall also mean and permit the sale of intoxicating liquor in original packages for consumption by the purchaser on the premises where sold only and not elsewhere.

(4) “Package” and “Original package” mean and include any container or receptacle holding liquor, 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.

(5) "Person" whenever used in this chapter means any individual who is a bona fide resident of North Dakota; a domestic private corporation organized under the laws of North Dakota; or a copartnership, all of the members of which said copartnership are bona fide residents of North Dakota; or a club or lodge, and which "club or lodged" means and includes any corporation or association organized for civic, fraternal, social or business purposes, or for the promotion of sports, and which such club or lodge has at least two hundred members at the time when the license hereinbefore mentioned is applied for, and which the club or lodge was in existence on November 3rd, 1936.

(6) “Sale” and “Sell” means and includes all barters, and all manners or means of furnishing intoxicating liquor or liquors, including the selling, exchange, barter, disposition of, and keeping for sale of such intoxicating liquor.

(7) "Wholesaler" for the purposes of this chapter, means and includes any person engaged in the sale and distribution of liquor to persons holding a retail license for the sale and distribution of intoxicating liquor in interstate commerce and which wholesaler has been duly licensed under the provisions of the Liquor Control Act of North Dakota. (Ord. 7 (part), 1945: Ord. 2 (part), 1942: 1942 Rev. Ords. §5-201).

8.08.020 License required. No person as defined in this chapter shall sell, exchange, barter, dispose of, or keep for sale any intoxicating liquor as defined herein, and as defined in the Liquor Control Act of North Dakota, and acts supplementary thereto or amendments thereto without first having obtained a license therefore as provided in this chapter. (1942 Rev. Ords. §5-202).

8.08.030 Types of licenses. Licenses granted under the provisions of this chapter shall be of two kinds:

(1) Wholesale license.

(2) Retail License. Licenses for the sale of intoxicating liquor at retail, as provided in this chapter, shall permit both off-sale and on-sale of intoxicating liquor, except in the case of Class D licenses which shall be designated on-sale and off-sale, or on-sale, or off-sale. (Ord. 295 §2, 1988: Ord. 7 (part), 1945: 1942 Rev. Ords. §5-203).

8.08.040 Fees. (a) Retail Licenses. The license fee for a retail license is fixed at the sum of one thousand dollars per year, except in the case of separate on-sale and off-sale Class D licenses which shall each have a fee of six hundred dollars per year, payable in advance, and at the time of making of the application for such license as set forth in Section 8.08.060 of this chapter.

(b) Wholesale Licenses. The license fee for a whole-sale license is fixed in the sum of one thousand two hundred fifty dollars per year, payable in advance and at the time of making the application for such license as provided in Section 8.08.060 of this chapter. (Ord. 295 §3, 1988: 1942 Rev. Ords. §5-204).

8.08.050 Term of license. All licenses hereunder shall be issued for one year, and not less than one year, and shall expire on December 31st in each year after the granting of such license and no rebate of any portion of the license fee shall be made. Provided, however, that the city council may in its discretion, refund to the licensee or those claiming under him a portion of the unused license fee equal to one-twelfth of the license fee paid for each full month remaining of the unexpired term of said license, when such licensee shall cease business at the licensed premises by reason of his death or the destruction by fire or otherwise of his place of business, or for such other reason as the council may in its sole discretion deem to be without culpability on his part. (Ord. 201, 1973 (part), 1947: 1942 Rev. Ords. §5-205).

8.08.060 Application for license. Any person desiring a license to sell intoxicating liquor at retail or wholesale as described in Section 8.08.040 shall make and file with the city council, through the city
auditor, and application for such license accompanied by the fee as herein provided in Section 8.08.040 and which application shall contain the following information, together with such information as may, from time to time by the city council, be required to be contained therein. Such application shall be verified by the person making the application, and if the applicant is a corporation, it shall be verified by the president and secretary of the corporation, if an individual by such individual and if a copartnership, by each member of said copartnership. The following information shall be required of all applicants and so stated in the application:

(1) The name of the applicant, and if the applicant is a corporation, the name and address of all persons holding one percent or more of the stock in the corporation; if the applicant is a copartnership, the name and address and place of residence of each person, the members of the copartnership and any person having any financial interest therein;

(2) Whether the applicant is a citizen of the United States and if a naturalized citizen, giving the date and place of naturalization and whether the applicant is a resident of North Dakota and the place of residence of the applicant for a period of one year last preceding the date of the application; if the applicant is a corporation, the date of incorporation and the state where incorporated, the amount of the authorized capital stock, the amount of the paid in capital, whether such corporation is a subsidiary of any corporation and if so the name of the parent corporation, the purposes for which the corporation was incorporated, together with the names and addresses of the officers, directors, and managing agents of said corporation, and in addition thereto the names and addresses of all stockholders holding one percent or more of the capital stock of such corporation; provided, that all stock in any corporation licensed under the provisions of this chapter must be owned by bona fide residents of North Dakota;

(3) The location, by legal description, of the place for which license is sought;

(4) The name and address of the owner of the premises for which license is sought and in addition thereto if the license is sought by a person other than the owner of the premises, the terms of the lease under which said applicant holds possession of the premises, insofar as the terms of such lease and the rental to be paid thereunder are concerned and the applicant shall when required by the city council furnish to the city council a copy of the lease under which he holds possession of the premises. If the license is sought by the owner of the premises sought to be licensed, the applicant shall state the time that such applicant acquired title thereto;

(5) Whether the taxes on such property are delinquent;

(6) Whether the applicant has ever engaged in the sale or distribution of liquor prior to this application, if so, giving the date and type of business and the place where so engaged, whether within or without North Dakota. If the application is for a renewal license, giving the date the applicant first began to operate; provided, however, that this provision shall not apply to a license first issued hereunder;

(7) Whether the applicant has ever had a license revoked or canceled by any municipal, state, or federal authority, and, if so, the date of such cancellation, the place and authority canceling the same and the reason for such cancellation;

(8) Whether the applicant has ever been convicted of the violation of any law of the United States or of any state or of the violation of any local ordinance with regard to the manufacture, sale, distribution, or possession of intoxicating liquor and if so, the dates, names of places, and courts in which the convictions were had;

(9) Whether the applicant has ever had a license for the sale of intoxicating liquor revoked for any violation of the state law or local ordinances and if so the name of the body revoking such license, the date of such revocation and the reason assigned therefore;

(10) Whether the applicant has ever been convicted of any other crime than stated in Subsections (8) and (9), in this state or any other state or under Federal Law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of sentence passed and the court in which convicted;

(11) The name and address as hereinbefore provided of all copartners, all members of the
copartnership having any financial interest in the business, silent or otherwise, and the name and address of the person who will have charge, management, or control of the establishment for which license is requested;

(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 requested 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 agreement, understanding, or intention to have any agreement or understanding with any person, partnership, or corporation to obtain for any other person or transfer to any other person the license for which application is made or to obtain if for any other purpose than for the specific use of the applicant and if so the name and address of such persons and the conditions of such agreement;

(14) Whether the applicant has any interest whatsoever, directly or indirectly, in any other liquor establishment, either at wholesale or retail, within or without North Dakota, and if so the names and addresses of such establishments. This provision is meant to include the holders of stocks in any corporation dealing in liquor either at wholesale or retail and within the borders of the United States;

(15) List the occupation which the occupant has followed during the past two years;

(16) The names and addresses of at least three business references and a brief statement of the nature and extent of the business relations with such persons;

(17) Whether the applicant is rated by any commercial agency and if so, the name and address of the agency;

(18) Whether the applicant is engaged in any other business than that for which license is sought or intends to engage in any other business than the sale of liquor under the license applied for and if so the type of business and if an employee the names and addresses of such employer;

(19) The classification of license applied for, stating as to whether the license sought is a wholesale or off sale license;

(20) Whether or not the personal property taxes of the applicant are delinquent and if a copartnership, whether or not the personal property taxes of each member of the copartnership and each person financially interested therein are delinquent and whether or not the personal property taxes of the property to be used in conducting the business are delinquent. (1942 Rev. Ords. §5-206).

8.08.070 Licensee consent to police inspection. In addition to the requirements as stated in Section 8.08.060 to be set forth in the application made by any person seeking the license for the sale of intoxicating liquor such person or copartnership seeking such license shall state therein that he consents to any police officer, sheriff, or any peace officer of the county of Pierce or of North Dakota entering upon the premises for which license is sought for the purpose of inspecting the premises and any part thereof at any time and that such person seeking such application waives all rights, constitutional or otherwise, against unreasonable searches or seizures and further conditioned that any liquor found upon the premises or any property found therein which liquor or property is so held in the premises in violation of the laws of North Dakota or of this chapter may be seized and taken away by such officer and that such intoxicating liquor or other property so seized may be received in evidence against him in any procedure brought pursuant to the laws of North Dakota or this chapter. (1942 Rev. Ords. §5-207).

8.08.080 Investigation of fitness. The city council or such other person or officer as may be designated by the city council shall, upon application being filed, investigate the facts as stated in the application and the character, reputation and fitness of the applicant and shall report all such matters to the city council. (1942 Rev. Ords. §5-208).

8.08.090 Eligibility for license. Any person, firm, corporation or Limited Liability Company (L.L.C.), partnership or association, club or lodge, as hereinafter defined, having a bona fide residence in and being a citizen of North Dakota and engaged in any legitimate and lawful business, may engage in the
retail sale of liquor as defined in previous sections of this code in the city under the restrictions herein provided.

“Club or lodge” means and includes any corporation or association organized for civic, fraternal, social or business purposes, or for the promotion of sports. (Ord. 323, 1995: 1942 Rev. Ords. §5-209).

8.08.100 License not to be granted when personal property taxes delinquent. No license shall be granted to any person for the sale of intoxicating liquor, as defined in this chapter, where the personal property taxes on the property to be used in such business for which license is sought are delinquent or where the individual seeking the license or any person a member of a copartnership or financially interested in such business or any corporation has delinquent personal property taxes on any property owned by such person or persons. (1942 Rev. Ords. §5-210).

8.08.110 Nontransferable--City council to approve location changes. No license issued hereunder shall be transferable except as provided by the Liquor Control Act and no change of location shall be permitted without first making application and receiving the approval of the city council therefore. (1942 Rev. Ords. §5-211).

8.08.120 One license to a person. Not more than one retail or wholesale license shall be directly or indirectly issued or granted to any person. (1942 Rev. Ords. §5-212).

8.08.130 License to be posted. Licenses issued to licensees hereunder shall be posted in a conspicuous place in the premises for which the license has been issued. (1942 Rev. Ords. §5-213).

8.08.140 Location of premises. No license shall be issued for any building, room, or place, within two hundred feet of any church, public or parochial school, or synagogue, and in determining such distance, the distance shall be measured by the ordinary route of travel from the nearest point upon the grounds upon which such church, public or parochial school, or synagogue, is located to the entrance of the premises for which license is sought. No license shall be issued to any applicant for the sale of intoxicating liquor at retail outside of the following described districts:

Blocks six, seven, ten, eleven, and west half of block two, original townsite of the city. No license shall be issued for the retail sale of intoxicating liquor where the premises sought to be licensed is located in any basement or below the first floor of any building, except where the applicant for such license is a club or lodge, and no license for the retail sale of intoxicating liquor shall be issued for any premises above the first or ground floor of any building or premises, except where the applicant for such license is a club or lodge. (Ord. 7 (part), 1945: 1942 Rev. Ords. §5-214).

8.08.150 Disposition of license. Fees All license fees collected by the city shall be paid over to the city treasurer and credited to the general fund of the city. (1942 Rev. Ords. §5-215).

8.08.160 Consumption of liquor on premises. No person holding a wholesale license hereunder shall permit the consumption of any intoxicating liquor upon the licensed premises or the opening of the contents of the original package in which sale is made on the premises where sold (Ord. 2 (part), 1942: 1942 Rev. Ords. §5-216).

8.08.170 Revocation of licenses. Licenses issued pursuant to this chapter shall be cancelled for the following causes:

(1) The death of the licensee;
(2) When the licensee ceases business at the location licensed and a permit for a change of location has been denied;
(3) When the licensee be adjudged bankrupt;
(4) When the licensee has been convicted of the violation of any provision of this chapter or of a felony under the laws of the United States, of North Dakota, or of any other state of the United States;

(5) When the licensee ceases to be a legal bona fide resident and citizen of North Dakota;

(6) When the license or permit of the licensee from the United States Government to sell intoxicating liquor has been terminated or revoked;

(7) When the business of the licensee at the location licensed shall be conducted in violation of the health or sanitary regulations or other ordinances of the city;

(8) When the licensee has made a false statement in his application for license.

Such causes as hereinbefore described shall not be deemed to be exclusive and such license may be terminated at any time by the city council for a sufficient cause and justified by reason of public health or public morals and subject only to review by the courts of this state. When any license is revoked no portion of the license fee previously paid shall be returned to the licensee or to any one claiming under or through him; provided, however, that if the law under which any license as herein provided is granted shall be repealed such portion of the license paid shall be refunded to the licensee, as the time such license has left to run shall bear to the total time for which issued. (Ord. 13 (part), 1946: 1942 Rev. Ords. §5-218).

8.08.180 Hours and time of sale. No licensee shall sell, serve or permit to be sold, served or consumed on the premises named in the license any alcoholic beverages 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 Good Friday, Thanksgiving Day, Christmas Day, or after six p.m. on Christmas Eve, or between the hours of one a.m. and eight p.m. on the day of any statewide special, primary or general election. (Ord. 285 §2, 1986: Ord. 207 (part), 1973: Ord. 198, 1972; Ord. 130 (part), 1965; Ord. 112 (part), 1962: 1942 Rev. Ords. §5-219).

8.08.190 Selling or dispensing intoxicating liquor. No licensee, his agent or employee, shall sell, deliver, or dispense any intoxicating liquor or beer, to any habitual drunkard or to any person under guardianship or to any person under twenty-one years of age, and no licensee, his agent or employee, shall permit any person under the age of twenty-one years, whether such person is single or married, to be furnished with any intoxicating liquor or beer on the premises, or any part or portion thereof, for which any license has been issued pursuant to this chapter, and no licensee, his agent or employee, shall permit any person under the age of twenty-one years whether such person is single or married, to enter or be in or upon such licensed premises, or any part or portion thereof nor shall such licensee, his agent or employee, permit such person under twenty-one years of age to enter or be in any room which is a part of such licensed premises; and no person under the age of twenty-one years, whether single or married, shall be employed in or upon such licensed premises, or any part or portion thereof; and no such person under twenty-one years of age shall purchase, attempt to purchase, receive, or drink any intoxicating liquor or beer in any public place, licensed under this chapter, or on any street or alley within the limits of the city. Whosoever shall in any way procure or furnish liquor for the use of any person heretofore named in this section shall be deemed to have sold it to such person and to have violated the terms and conditions of this chapter. (Ord. 8 (part), 1946: 1942 Rev. Ords. §5-220).

8.08.200 Gambling devices not permitted in places where intoxicating liquor is sold. No licensee hereunder shall be permitted to have, or have in his possession and located on any premises for which a license is obtained pursuant to this chapter any slot machine, except an amusement device that may be legally licensed under the ordinances of the city, gambling device, punchboard, or other machine or device of similar nature and the possession of such machines upon the premises licensed shall be sufficient cause for the revocation of the license issued hereunder and such license shall be revoked should any slot machine, except an amusement device legally licensed under the ordinances
of this city, punchboard, or other device herein defined be found upon the licensed premises. (Ord. 24 (part), 1948: 1942 Rev. Ords. §5-221).

8.08.210 Licensee responsible for conduct of place of business. 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. No intoxicated person or persons shall be permitted to remain upon the premises or to be served intoxicating Liquor by any person holding any license issued pursuant to this chapter.

No licensee hereunder shall be permitted to extend any credit or to sell to any person upon credit any intoxicating liquor or alcohol. (1942 Rev. Ords. §5-222).

8.08.220 Booths and windows. No licensee for the retail sale of alcohol beverages shall maintain or suffer to be constructed, maintained, or placed in the premises licensed any side room, closed booth, or other enclosure. All booths located in such premises shall open up to the main part of the premises and shall be accessible from the aisles therein and shall not have thereon any screen, curtain, partition, door, or blind or any obstruction of any kind preventing clear view into the booths from the main room or aisle of the premises. No licensee for the retail sale of alcohol or alcoholic beverages shall be permitted to place in the windows or doors of the licensed premises any sign, advertising matter, paper, cards, or any other matter which shall in any manner obstruct the view into the premises and through the same from the street level in front of the premises and the view from the street level and through the window and door of the premises shall be at all times maintained in an open, clear, and unobstructed manner from the street, and no screen, partition, or other matter obstructing the view through any portion of the licensed premises shall be maintained where placed in the premises at any time. (1942 Rev. Ords. §5-223).

8.08.240 Stamp tax required--Liquor to be purchased from licensed wholesalers. No alcohol or alcoholic beverage as defined in the Liquor Control Act of North Dakota shall be permitted to be owned, held, or possessed upon any licensed premises or by any person to whom a license has been issued unless the stamp tax as provided by the Liquor Control Act of North Dakota has been properly affixed thereto and unless taxes on the alcohol or alcoholic beverages have been paid and the possession of any container of any kind in which such alcohol or alcoholic beverages is found which does not bear the proper stamps issued by North Dakota pursuant to the Liquor Control Act shall be deemed to be illegal and a violation of this chapter.

No retail licensee hereunder shall purchase, have, or possess any alcohol or alcoholic beverages as defined by the Liquor Control Act unless he has purchased the same from a wholesaler duly licensed pursuant to the provisions of the Liquor Control Act of North Dakota and each retail licensee hereunder shall keep on file all invoices covering purchases by him of such alcohol or alcoholic beverages showing the name and license number of the wholesaler and the name of the municipality issuing such wholesale license and such records shall be retained in possession of the licensee and shall be at all times open to inspection by any police officer or peace officer of North Dakota.

Each licensee under this chapter shall keep a book showing the kinds and quantities of all liquor purchased by him together with the name of the person from whom purchased, the license number of the wholesaler selling such liquor to the retail licensee and the name of the municipality issuing such wholesale license. (1942 Rev. Ords. §5-225).

8.08.250 Sanitary requirements. All premises licensed pursuant to this chapter must provide adequate and sufficient lavatories and toilets as may be prescribed by the board of health of the city. (1942 Rev. Ords. §5-226)
8.08.260  Number limited--Classes of liquor licenses.

(a)  Class A: To any club or lodge as defined, an off-sale beer and liquor license. (Members only.)

(b)  Class B: One off-sale beer and liquor license for each three thousand five hundred residents and one additional license for each two thousand people in excess of three thousand five hundred residents or a major fraction thereof in the city.

(c)  Class C: Five on-sale and off-sale beer and liquor licenses and one additional license for each two thousand people in excess of three thousand five hundred residents.

(d)  Class D: One on-sale and off-sale liquor license to each hotel or motel providing a minimum of eighteen guest rooms with continuous service and dining facilities. Each to have a seating capacity of at least fifty seats, exclusive of the liquor facility, as a part of such motel or hotel operation, with a full menu normally provided by the restaurant maintained and open six days a week, or lounges providing the restaurant services above described with a seating capacity of at least seventy-five seats exclusive of counter seating.

(e)  Class E: Unlimited On-sale beer and/or sparkling wine license to each restaurant provided such restaurant is constructed so that minors not accompanied by adults are seated in an area separated from the area where beer or wine is served. (Ord. 266 (part), 1981; Ord. 202, 1973: Ord. 179 (part), 1970: Ord. 158 (part), 1967, Ord. 367, 2007).

8.08.261  Sale of intoxicating liquor or liquor in street.  The sale or serving or consumption of intoxicating liquor or liquor, as defined in this chapter, upon or any street, alley, or public way, or public property is prohibited. (Ord. 256 (part), 1979)

8.08.262  Serving or consumption defined.  (a) “Consumption” as used in this chapter shall be construed to be the act or process of consuming.

(b)  “Serving” as used in this chapter shall be construed to be the use of intoxicating beverages as defined by this chapter in the places as defined by the ordinances of the city of Rugby. (Ord. 256 (part), 1979).

Section 8.08.263. Retail license required: exception.

No license shall be required for a domestic winery owner or operator having a license from the state tax commissioner allowing the production of wine and only being present within the city to utilize special event permits issued by the state tax commissioner under N.D.C.C. §5-01-17 provided that the owner or operator presents the state tax commissioner permit to the city clerk and obtains a permit for each event from the city clerk in accordance with the procedure set forth in Section 8.08 of the Rugby City Ordinances. (Ord. 362, 2007)
TITLE 9
PUBLIC PEACE, SAFETY AND MORALS*

* For state law authorizing the enactment of police ordinances, see N.D.C.C. §40-05-02(9).

Chapters:

9.04  Minors
9.08  Disorderly Conduct
9.12  Prostitution
9.16  Lewdness
9.20  Gambling
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Chapter 9.04
MINORS

Sections:

9.04.010 Curfew for minors under sixteen--Responsibility for violations--Penalty.
9.04.040 Sounding of curfew.
9.04.050 Unlawful to purchase from minor.
9.04.060 Purchase or possession of intoxicating liquor.
9.04.070 Purchasing intoxicating liquor for minor.
9.04.080 Furnishing money for intoxicating liquor.
9.04.090 False identification.

9.04.010 Curfew for minors under sixteen--Responsibility for violations--Penalty. (a) It shall be unlawful for any minor under the age of sixteen years of age to be present upon the public streets, thoroughfares, or other public property of the city between the hours of 10:30 p.m. and 6:00 a.m. of the following day unless accompanied by a parent or an adult having the right under law to assert parental authority over such minor.

(b) It shall also be unlawful for the parent of a minor under the age of sixteen or an adult having the right and duty under the law to assert parental authority over such minor to knowingly permit such minor to violate subsection (a) of this section and violations can be punished by a fine not to exceed one hundred dollars. (Ord. 301 (part), 1990: 1942 Rev. Ords. §6-101)

9.04.040 Sounding of curfew. It shall be the duty of the chief of police or some policeman designated by him, to designate the hour of ten p.m., each day by the sounding of a siren or other readily audible device for an appropriate period. (Ord. 143 (part), 1967: 1942 Rev. Ords. §6-104)

9.04.050 Unlawful to purchase from minor. It shall be unlawful for any person within the corporate limits of this city to purchase goods, wares, and merchandise, except garden and farm produce and products, from a minor, unless accompanied by his parent or guardian or unless such minor shall first procure and exhibit the written consent of such parent or guardian to the sale by him of such goods, wares, and merchandise.

This section shall not be construed to prohibit any minor from selling newspapers, magazines, or other printed matter or publications. (1942 Rev. Ords. §6-105)

9.04.060 Purchase or possession of intoxicating liquor. It shall be unlawful for any person under the age of twenty-one years to purchase or attempt to purchase or have in his or her possession any intoxicating liquor within the city. (Ord. 83 §1, 1958).

9.04.070 Purchasing intoxicating liquor for minor. It shall be unlawful for any person to purchase or procure for any person under the age of twenty-one years any intoxicating liquor or to furnish or deliver such intoxicating liquor to any such person. (Ord. 83 §2, 1958)

9.04.080 Furnishing money for intoxicating liquor. It shall be unlawful for any person under the age of twenty-one years to furnish money to any other person for the purpose of purchasing intoxicating liquor. (Ord. 83 §3, 1958)
9.04.090 False identification. It shall be unlawful for any person under the age of twenty-one years to make any false statement or to furnish, present, or exhibit any false or fictitious registration card or document or evidence for the purpose of gaining admission to any place where his or her presence is prohibited or for the purpose of procuring the sale to him or her any intoxicating liquor. (Ord. 83 §4, 1958)
Chapter 9.08

DISORDERLY CONDUCT

2. For state law empowering a city to prohibit disorderly conduct, see N.D.C.C. §40-05-01(33).

Sections:

9.08.010 Disorderly conduct. (a) A person shall be guilty of disorderly conduct if with interest to annoy, harass, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by his behavior, he:

(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, he solicits such contact;
(7) Creates a hazardous, physically offensive, or seriously alarming condition by any act which serves no legitimate purpose; or
(8) Knowingly allows or permits another individual to engage in any illegal conduct.

(b) Any person determined to be guilty under this section shall be subject to the penalty as defined in Section 1.01.110. (Ord. 388, 2014; Ord. 249, 1979: 1942 Rev. Ords. §6-201).

9.08.015 Disorderly House/Disorderly Vehicle. An individual who knowingly permits disorderly conduct as described in Section 9.08.010 of this chapter to occur within or upon any premises, property or motor vehicle owned, possessed, or under the individual’s control, is guilty of the offense of disorderly house/disorderly vehicle, which is an offense subject to a fine of $500 for the first offense and $1,000 for each subsequent offense. (Ord. 388, 2014)
9.08.020 False alarms, interference with apparatus. Any person, other than a police officer or city officer in the discharge of his duty, shall, give, make, or sound any alarm or call, on or with any policemen’s whistle or siren or other instrument commonly known or used by any of the police officers of the city in making alarms or calls; while in the discharge of his duty, and no person shall in any manner whatever, intentionally interfere with or injure any property of any kind belonging to or used by the fire department or police department; or hinder or delay any apparatus or equipment or vehicle belonging to the fire department or police department. (1942 Rev. Ords. §6-202).

9.08.030 Carrying concealed weapons. It is unlawful for any person or persons to carry concealed weapons within the city unless for a good and justifiable reason. (1942 Rev. Ords. §6-203).

9.08.040 Discharging of firearms. It is unlawful for any person within the city to fire off or discharge any gun or firearm except officers in discharge of their duties or members of the militia on their rifle range or regularly organized gun clubs on their regular shooting grounds. Provided, that nothing in this section shall be construed to apply to the firing of any gun or other firearm when done in defense of self or home or in other cases of actually necessity. (1942 Rev. Ords. §6-204)

9.08.050 Persons lying in wait to commit crimes. No person shall lurk, lie in wait, or conceal themselves in any house or other building, or in any yard or other place within the limits of the city with intent to do any mischief, pilfer, or commit any crime or misdemeanor whatever. (1942 Rev. Ords. §6-205).

9.08.060 Throwing missiles against buildings or at persons. No person shall throw, cast, or encourage, aid or assist others in throwing or casting any stone or other missile into, upon, or against any building, erection, or other public or private property, or upon or at any person or persons, in any street, alley, or other enclosed or unenclosed place within the city. (1942 Rev. Ords. §6-206).

9.08.070 Throwing of tacks on streets. No person shall throw or place on any street or sidewalk in the city any tacks, glass bottles, scrape iron, glass, tin, wire, or other article or thing liable to cause punctures in the tires or automobiles, bicycles, tricycles, or other vehicles or to wound, injure, or disable the riders thereof. (1942 Rev. Ords. §6-206).

9.08.080 Criminal mischief. (1) No person shall willfully tamper with any tangible property of another so as to endanger person or property, nor shall any person willfully damage any tangible property of another.

(2) As used in this section, “tangible property of another”, shall mean any public or private property, real or personal, whether the same shall belong to the city, the County of Pierce, the state of North Dakota, the United States of America, or to the public generally, within the city.

(3) Any person who violates or fails to comply with the provisions of this ordinance shall be subject to a penalty not to exceed a fine of one thousand dollars, imprisonment for thirty days, or both such fine and imprisonment only if any pecuniary loss intentionally caused by the person is not in excess of five hundred dollars; if recklessly caused is not in excess of five thousand dollars; and, if the damage was not caused by means of an explosive or a destructive device. If the pecuniary loss is greater than or was caused by the means described above, the person shall be prosecuted in state court.

9.08.090 Removing or secreting property of another. No person shall misplace, hide, remove, or secrete any personal property of another to his annoyance or inconvenience, or shall in any manner interfere with the possession, control, or custody of the personal property of another without his consent. (1942 Rev. Ords. Section 6-209).
9.08.120   **Begging prohibited.** No person shall within the city place himself upon any sidewalk or public street for the purpose of begging or receiving alms, or go about the city from place to place begging alms without the written permission of the mayor. (1942 Rev. Ords. Section 6-212).

9.08.130   **Spitting in public places.** No person shall, in the city, spit upon any sidewalk or upon any building, stair, hallway, stairway, the floorway or furniture of any building or office; nor, without the owner’s consent, shall spit upon thy floor, hallway, furniture, walls, or other parts of any private building, office, or room. (1942 Rev. Ords, Section 6-213).

9.08.140   **Unlawful to assemble to disturb peace.** It is unlawful for any person or persons to be or assemble within the city limits, with intent, or with means and preparations to do an unlawful act, or for any three or more persons to assemble without authority of law and in such a manner as is adapted to disturb the public peace, or excite public alarm, and each and every person present at and participating in such assembly shall be subject to the penalty provided in Section 1.01.110 (1942 Rev. Ords. Section 6-214).

9.08.150   **Disturbing religious meetings.** No person shall disturb any congregation or assembly met for religious purposes by any noise, indecent conduct, or profane discourse within their place of worship or in such proximity thereto as to disturb the solemnity of the meeting. (1942 Rev. Ords. Section 6-215).

9.08.160   **Disturbing public meetings.** No person shall disturb any lawful assemblage by rude, noisy, or indecent conduct or language, or by any other means. (1942 Rev. Ords. Section 6-216).

9.08.170   **Dangerous openings.** It is unlawful for any person or persons to keep open or in an unsafe condition any hole, vault, pit, or other subterranean opening on or about the premises owned or occupied by such person or persons so that persons may be injured by falling therein. (1942 Rev. Ords. Section 6-217).

9.08.180   **Loitering at night prohibited.** It is unlawful for any person within the city limits, to wander about the streets, alleys, or other public ways or places, or to drive a motor vehicle aimlessly or be a passenger therein or thereon, if such person is found abroad at late or unusual hours in the night without any visible or lawful business and not giving a satisfactory account of himself or herself. (Ord. 153 (part), 1967).
CHAPTER 9.12

PROSTITUTION

3. For state law authorizing the restraint and punishment of prostitutes, see N.D.C.C. Section 40-05-01 (43).

Sections:

9.12.010 Prostitution

9.12.010 Prostitution.

(1) A person is guilty of the offense of prostitution and shall be subject to the penalty provided in Section 1.01.110 if he:

(a) Is an inmate of a house of prostitution or is otherwise engaged in sexual activity as a business; or
(b) Solicits another person with the intention of being hired to engage in sexual activity.

(2) Testimony of a person against his or her spouse shall be admissible to prove offenses under this section involving that spouse’s prostitution.

(3) In this section;

(a) “Sexual activity” means sexual act or sexual contact as those terms are defined in N.D.C.C. Section 12.1-20-02.
(b) A “house of prostitution” is any place where prostitution is regularly carried on by a person under the control, management, or supervision of another.
(c) An “inmate” is a prostitute who acts as such in or through the agency of a house of prostitution.

9.12.020 Duty of officers. It shall be the duty of the chief of police and all other policemen to take notice of any violations of the provisions of Section 9.12.010, and to report such infractions to the mayor.
CHAPTER 9.16

LEWDNESS

Sections:

9.16.010 Nudity or indecent dress or act.
9.16.0201 Repealed.
9.16.030 Foul and indecent language.

9.16.010 Nudity, semi nudity and sexually explicit acts prohibited.
(1) No person who is within the City of Rugby, North Dakota, in any public place shall knowingly omit to cover securely with at least an opaque covering the following portions of his or her anatomy:
   a) The nipples;
   b) The pubes;
   c) The cleavage between buttocks; and
   d) The genitals.

   However, Item (1) above, pertaining to the nipples, shall apply to females only.

(2) No person while in a public place in the City of Rugby, shall perform or simulate acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or shall perform or simulate the touching, caressing, or fondling of breasts, buttocks, anus, or genitals.

(3) Any person who allows or promotes any lewd display or knowingly promotes activities contrary to this ordinance shall be in violation the same as if he or she directly committed the act described.

(4) Any person who allows and/or encourages such acts or behavior shall also be responsible for penalties under this ordinance.

(5) Any person found guilty of violating this ordinance shall be subject to a fine of up to $100.00 and incarceration up to 30 days. (Ord. 344, 2002)

9.16.030 Foul and indecent language. It shall be unlawful for any person to use any foul, obscene, or indecent language towards any person in any public place within the city, or in the presence of any person within the city. (1942 Rev. Ords. Section 6-403).
CHAPTER 9.20

GAMBLING

Sections:

9.20.010  Engaging in gambling prohibited.
9.20.020  Definitions.

9.20.010  Engaging in gambling prohibited.  No person shall engage in gambling as defined in
Section 9.20.020 (a) within the city limits. Any person who violates the provisions of this section shall
be subject to the penalty provided in Section 1.01.110. Participating in or soliciting information about a
lottery, or engaging or participating in the business of gambling are punishable in state court as more
serious crimes.

9.20.020  Definitions.  As used in this chapter:

(a)  "Gambling" means risking any money, credits 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 art event, including an election or sporting event, over which the person
taking the risk has no control. Gambling does not include (1) lawful contests of 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.

(b)  "Lottery" means any plan for the distribution of a thing of value whether tangible or
intangible, or a person or persons selected by chance from among participants, some or all of whom
have given a consideration for the chance of being selected.

(c)  "Gambling apparatus" means any device, machine, paraphernalia, or equipment that is
used or usable in the 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 N DCC Section 53-03-01.

(d)  "Gambling house" means any location or structure, stationary or movable, wherein
gambling is permitted or promoted, or where a lottery is conducted or managed. In the application
of this definition, any place where gambling apparatus is found is presumed to be a gambling house,
provided that this presumption shall not apply where cards, dice, or other games are found in a private
residence.

(e)  Without limitation, a person shall be deemed to be engaged in the business of gambling if
he;

1)  Conducts a wagering pool or lottery;
2)  Receives wagers for or on behalf of another person;
3)  Alone or with others, owns, controls, manages, or finances a gambling business;
4)  Knowingly leases or otherwise permits a place to be regularly used to carry on a
gambling business or maintain a gambling house;

5)  Maintains for use on any place or premises occupied by him a coin-operated
    gaming device; or
6)  Is a public servant who shares in the proceeds of a gambling business whether by
    way of bribe or otherwise.

(f)  1)  The term "coin-operated gaming device" means any machine which is;
       A)  A so-called “slot” machine which operates by means of the insertion of a
           coin, token, or similar object and which, by application of the element of
           chance, may deliver, or entitle the person playing or operating the machine
to receive cash, premiums, merchandise, or tokens; or
B) A machine which is similar to machines described in paragraph A) and is operated without the insertion of a coin, token, or similar object.

2) The term “coin-operated gaming device” does not include a bona fide vending or amusement machine in which gambling features are not incorporated as defined in NDCC Section 53-04-01.
CHAPTER 9.24

LOITERING

Sections:

9.24.010 Definitions
9.24.030 Loitering in parking lots
9.24.040 Penalty

9.24.010 Definitions. As used in this chapter:

a) "Loitering" means remaining idle in essentially one location and shall include the concept of spending time loitering, loafing, wandering, standing or remaining idle, whether said loitering is done while an individual is in a motor vehicle or outside of a motor vehicle.

b) "Public" includes that which is open to common use and used by an individual, without restriction, permit or permission.

c) "Parking Lot" includes any areas within the City of Rugby which areas would allow for the parking of four or more motor vehicles. (Ord. 384, 2014)


(1) It shall be unlawful for any person to loiter either alone and/or in concert with others in a public place in such manner as to:

a) Obstruct any public street, public highway, public sidewalk, public parking lot, or any other public place or building by hindering or impeding or tend to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.

b) Commit in or about any public street, public highway, public sidewalk or public parking lot, or any other place or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk, public parking lot or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, thereon and thereto.

c) Create or cause to be created a danger of a breach of the peace, or create or cause to be created any disturbance or annoyance to the comfort and repose of any person.

d) The making of unsolicited remarks of any offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person whom, or in whose hearing, they are made.

(2) No person shall loiter or prowl in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself, or any object.

(3) Unless flight by the actor or other circumstance makes it impractical, a police officer, prior to enjoining the penalty outlined in this ordinance, afford the actor an opportunity to dispel any alarm which would otherwise be warranted by requesting the actor to identify themselves and explain their
presence or conduct.

(4) No person shall be convicted of an offense under subsection (2) of this section if the police officer did not comply with subsection (3) of this section, or if it appears at the trial, that the explanation given by the actor was true, and if believed by the police officer at the time, would have dispelled the alarm.

(5) When any person causes or commits any of the conditions enumerated in this chapter, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such order shall be guilty of a violation of this chapter. (Ord. 384, 2014)


1) No persons shall loiter in a parking lot in such a manner as to:
   a) Create or cause to be created a danger of a breach of the peace.
   b) Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.
   c) Obstruct a free passage of pedestrians or vehicles.
   d) Obstruct, molest or interfere with any person lawfully in any public place.

2) Notice and Signs.
   a) All parking lots which are owned by the city shall have posted signs stating this prohibition against loitering.
   b) Any parking lot not owned by the city, shall be subject to the same provisions of this section, if the owner of that parking lot does place signs identical to those referred to in subsection 2) a) of this section. These signs are to be placed on that parking lot by the owner of the parking lot, and the owner shall bear the expense of obtaining and placing those signs upon the parking lot. The city may provide assistance in obtaining and placing these signs in the parking lot, however, all cost is to be paid by the owner of the parking lot. (Ord. 384, 2014)


1) Any person violating the provisions of this section shall be subject to a fine not to exceed five hundred dollars, and a separate offense shall be deemed committed each time a violation does occur under this section.

2) This section can be enforced by a law enforcement officer who has witnessed any violation of this section.

3) This section shall not apply to any activities which are conducted by and under the direction of an owner of a parking lot, which is owned by an entity other than the city. Additional activities can be conducted upon parking lots, however, it shall be necessary to file with the city auditor, an application for a permit to conduct such activity, and it shall be within the discretion of the city council whether or not to allow such activity and the city council shall further set forth any rules or guidelines which govern that activity. (Ord. 384, 2014)
Chapter 9.28

NUISANCES*

* For state law empowering a city to declare what shall constitute a nuisance and providing for the abatement thereof, see N.D.C.C. §40-05-01(44).

Sections:

9.28.010 Defined. A public nuisance is a thing, act, failure to act, occupation, or use of property which:

(1) Shall annoy, injure, or endanger the safety, health, comfort, or repose of any considerable number of persons;
(2) Shall offend the public decency;
(3) Shall unlawfully interfere with, obstruct, or tend to obstruct, or render dangerous for passage a lake, navigable river, bay, stream, canal, or basin, or a public park, square, street, alley, or highway; or
(4) Shall in any way render any considerable number of persons insecure in life or in use of property. (1942 Rev. Ords. §11-101)

9.28.020 Nuisance affecting health. The following are declared to be public nuisances affecting health:

( 1) All decayed or unwholesome food offered for sale to the public;
( 2) All ponds, pools of water, or vessels holding stagnant water in which mosquitoes can breed;
( 3) Carcasses of animals not buried or otherwise disposed of in a sanitary manner within twenty-four hours after death;
( 4) Accumulations of manure, tin cans, boxes, decayed animal matter, decayed vegetable matter, or rubbish which are breeding places for flies, mosquitoes, or vermin;
( 5) Privy vaults and garbage cans which are not fly tight;
( 6) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, creamery, or industrial wastes, or other substances;
( 7) All noxious weeds and other rank growths of vegetation upon public or private property;
( 8) Dense smoke, noxious fumes, gas, soot, or cinders in such quantities as to render the
occupancy of property uncomfortable to a person of ordinary sensibilities;
   ( 9) All public exposure of persons having contagious disease;
   (10) The use of a common public drinking cup or roller towel;
   (11) The distribution of samples of medicines or drugs unless samples are placed in the
       hands of an adult person;
   (12) All other acts, omissions or act, occupations, and uses of property which are in fact a
       menace to the public health. (1942 Rev. Ords. §11-102)

9.28.030  Affecting morals and decency. The following are hereby declared to be public nuisances
         affecting public morals and decency:
   ( 1) All gambling devices, slot machines, and punch-boards and all games of chance,
       gambling, and betting;
   ( 2) All houses kept for the purpose of prostitution or promiscuous sexual intercourse,
       gambling houses, houses of ill fame, and bawdy houses, and resorting to any such place or enticing
       others to resort thereto;
   ( 3) All domestic animals in the act of copulation exposed to public view;
   ( 4) All places where intoxicating liquors or manufactured, sold, bartered, or given away in
       violation of law or where persons are permitted to resort for the purpose of drinking intoxicating liquors
       kept for sale, barter, or distributed in violation of law, and all liquors, bottles, kegs, pumps, bars, and
       other property kept at and used for maintaining such a place;
   ( 5) Any vehicle used for any immoral or illegal purpose;
   ( 6) All indecent or obscene pictures, books, pamphlets, magazines, and newspapers;
   ( 7) The public use of profane or obscene language;
   ( 8) Betting, bookmaking, and all apparatus used in such occupations;
   ( 9) Places used for the holding of public dances unless conducted as provided by law. (1942
       Rev. Ords. §11-103)

9.28.040  Affecting peace and safety. The following are declared to be public nuisances affecting
         public peace and safety:
   ( 1) All snow and ice not removed from public sidewalks within the time required by
       ordinance;
   ( 2) All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles
       approaching and intersection of public highways from having a clear view of traffic approaching such
       intersection from cross streets, for one hundred feet along such cross streets measured from the
       property line, when one hundred feet from such intersection, measured from the property line;
   ( 3) All limbs of trees which project over a public sidewalk or street and which are less than
       eight feet above the surface of such public sidewalk and nine feet above the surface of such street;
   ( 4) All wires over streets, alleys, or public grounds which are strung less than fifteen feet
       above the surface of the ground;
   ( 5) All buildings, walls, and other structures which have been damaged by fire, decay, or
       otherwise, and which are so situated as to endanger the safety of the public;
   ( 6) All explosives, inflammable liquids, and other dangerous substances stored in any manner
       or in any amount other than that provided by ordinance;
   ( 7) All piles and stacks of hay, straw, forage, and other feed for animals, except as are
       stacked, situated, or located as permitted by ordinance;
   ( 8) All use or display of fireworks except as provided by ordinance;
   ( 9) All loud or unusual noises and annoying vibration which offend the peace and quiet of
       persons of ordinary sensibilities;
   (10) All buildings and all alterations to buildings made or erected within the fire limits as
       established by ordinance in violation of the ordinance concerning manner and materials of
       construction;
(11) Obstructions and excavations affecting the ordinary use of the public streets, alleys, and sidewalks, or public grounds except under such conditions as are provided by ordinance;

(12) Any use of the public streets or sidewalks which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalks;

(13) All hanging signs, awnings and other similar structures over the streets or sidewalks so satiated or constructed as to endanger public safety;

(14) The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(15) All dangerous, unguarded machinery in any public place or so situated or operated on private property so as to attract the public;

(16) The distribution of handbills, except as provided by ordinance;

(17) All animals, pigeons, or domestic fowl running at large;

(18) All bees, which shall mean any stage of common honey bee, Apis mellifera L;

(19) All venomous snakes and snakes not common to North Dakota. (Ord. 260, 1980; 1942 Rev. Ords. §11-104)

20) Any engine brake, compression brake, or mechanical exhaust devise designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle. (Ord. 351, 2006)

9.28.045 Enforcement. Only peace officers of this state and their respective duly authorized representatives may enforce this Ordinance. (Ord. 357; 2006)

9.28.050 Penalty for Violation. Any person, firm, corporation or association violating any of the terms, articles or provisions of this chapter, which a specific penalty is not prescribed, shall upon conviction thereof, be punished by a fine of not less than $50.00, nor more than $500.00, or by imprisonment not to exceed 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. 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. (Ord. 358; 2006)

9.28.060 Definition. Whenever used in this chapter, the term “noxious weeds” means and includes 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 other unwanted vegetation over eight inches in height. (Ord. 282 §1 (part), 1986).

9.28.070 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, street or alley lying next to the lands or boulevards abutting thereon noxious weeds or other deleterious, unhealthful growths. (Ord. 282 §1 (part), 1986).

9.28.080 Notice to destroy. The city building inspector is 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, street, or alley lying next to the lands or boulevards abutting thereon. Such notice shall be by registered or certified mail addressed to the owner or agent of the owner at his last known address and shall give such owner or agent a minimum of seven days, from the date of the mailing of the notice, to cut or destroy the noxious weeds. (Ord. 282A §1 (part), 1990; Ord. 282 §1 (part), 1986).

9.28.090 Action upon noncompliance. 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-halt of any road, street or alley lying next to the lands or boulevards abutting thereon after receipt of the written notice provided for in Section 9.28.080 of this chapter or within seven days after the mailing 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 building inspector is authorized and empowered to arrange and pay for the cutting, destroying, and/or removal of such noxious weeds or to order their removal by the city. (Ord. 282A §1 (part), 1990; Ord. 282 §1 (part) , 1986).

9.28.100  Cost assessed to property. When the city has effected the removal of such noxious weeds or has paid for their removal, the actual cost thereof, if not paid by the owner prior thereto, shall be charged and assessed against the property upon which the noxious weeds were cut or destroyed. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists, and shall be approved by the governing body and shall bear interest at the maximum legal rate provided by state law for special assessments. 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. (Ord. 282 §1 (part) , 1986)

9.28.110  Dirt, filth, etc. in streets and property. It is unlawful for any person, firm or corporation to throw, place, deposit, leave or cause to be thrown, placed, deposited or left in any of the public streets, highways, alleys, parks or thoroughfares, or on any private premises in this city any dirt, filth, sewage, sweepings, rags, dung, garbage, compost, wastepaper, excelsior, straw, hay, leaves, brush, weeds, dry grass, shavings, barrels, boxes, wooden crates, lumber, stable manure, ashes, vegetables, slops or litter of any kind, and any place or property having left or deposited thereon any of the things or substances aforesaid is declared to be a nuisance. (Ord. 282 §1 (part) , 1986)

9.28.130  Notice to remove--Action upon noncompliance--Cost assessed to property. In order to obtain the removal of any of the nuisances set forth in Section 9.23.110 of this chapter, the city building inspector is authorized and empowered to use the authority, power and procedures regarding notice and action upon noncompliance as set forth in Sections 9.28.080 and 9.28.090 of this chapter. Further, any costs of the city in effecting the removal of such nuisance shall be assessed against the property from which the nuisance is removed as set forth in Section 9.28.100 of this chapter. (Ord. 282A §1 (part), 1990; Ord. 282 §1 (part) , 1986).

9.28.140  Automobiles, personal property--When a nuisance. Unsheltered storage of old, used, stripped, junked and other automobiles not in good, safe, operating condition, and of any other vehicles, machinery implements and/or equipment and personal property of any kind which is no longer safely usable for the purposes with which it was manufactured for a period of thirty days or more (except in a licensed junk yard) within the city, and any motor vehicle, animal and article or personal property which constitutes on obstruction to, hazard or detriment to public traffic, snow removal operations, public safety and public health and morals or which may be abandoned or unclaimed within this city is declared to be a nuisance and dangerous to public safety and shall be abated in any of the manners prescribed in this chapter. (Ord. 282 §1 (part), 1986).

9.28.150  Abatement required by owners. The owner, owners, tenants, lessees and/or occupants of any lot or tract within the corporate limits of this city upon which such storage is made, and also the owner, owners, and/or lessees of the property involved in such storage (all of whom are hereinafter referred to collectively as “owners”), shall jointly and severally abate the nuisance by the prompt removal of the 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. (Ord. 282 §1 (part) , 1986).
9.28.160 Removal and impoundment. 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, any personal property described in Section 9.28.140 of this chapter 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. (Ord. 282 §1 (part), 1986)

9.28.170 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 days after impounding, any article or personal property described Section 9.28.140 of this chapter 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 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 nine a.m. and five 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. (Ord. 282 §1 (part), 1986).

9.28.180 Removal and impoundment--Proceeds. Within thirty days after such sale, the person making the sale shall make out, in writing, and file with the city auditor a full report of such sale, specifying the property sold, the amount received, the amount of costs and expenses, and disposition made by him of the proceeds of the sale. The proceeds arising from such sale shall be delivered over to the city auditor along with the report of sale and credited to the general fund. (Ord. 282 §1(part), 1986).
Chapter 9.32

RADIO INTERFERENCE*

* For state law empowering a city to prevent interference with radio reception, see N.D.C.C. §40-05-01(64).

Sections:

9.32.010 Interference with radio reception.

9.32.010 Interference with radio reception. It is unlawful for any person, firm, copartnership, association, trust, or corporation, to sell, install, or operate, within the corporate limits of the city, any appliance, device, apparatus, or equipment, the use or operation of which will cause or does cause high frequency or other oscillations that interfere with radio broadcast or wireless reception within the corporate limits. (1942 Rev. Ords. §11-201)
Chapter 9.36

FIREWORKS

Sections:

9.36.010   Fireworks--Permit required.  It is unlawful for any person to store, to offer for sale, expose for sale, sell at retail any fireworks except under special permits. (Ord. 278 §1, 1984: Ord. 274 §1, 1983)

9.36.020   Permits--Granted by chief of police.  The chief of police shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by a jurisdiction, fair associations, amusement parks, other organizations or for the use of fireworks by artisans in pursuit of their trade. Every such use or display shall be handled by a competent operator approved by the chief of police and shall be of such character and so located, discharged or fired so as, in the opinion of the chief of police after proper investigation, not to be hazardous to property or endanger any person. (Ord. 274 §2, 1933)

9.36.030   Permits--Application required ten days in advance.  Applications for permits shall be made in writing at least ten days in advance of the date of the display. After such privilege shall be granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted under this chapter shall be transferable. (Ord. 274 §2, 1983)

9.36.040   Permitted uses.  This ordinance shall not be construed to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes, illumination, or the sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports or for use by military organizations. (Ord. 274 §4, 1983)

9.36.050   Limitations.  The use of fireworks is prohibited within the Corporate limits of the City of Rugby except for in the below circumstances:
   A.   Permitted hours of use
      1.   June 27 through July 2, 8AM to 11PM.
      2.   8AM July 3 to 1AM July 4
      3.   8AM July 4 to 1AM July 5
      4.   8AM to 11PM July 5
   B.   Fireworks may be used for special events subject to Ordinance 9.36.030.
   C.   No person shall ignite or discharge any fireworks within 100 feet of a fireworks booth, gasoline service stations, gasoline dispensers, flammable or combustible liquid tank fill or vent lines, above-ground flammable or combustible liquid tanks, or any building, structure or vehicle containing unsealed flammable or combustible liquids, hazardous materials or explosives.
   D.   No person shall ignite or discharge any fireworks within or throw from a motor vehicle or at any person, group of people, animal or group of animals.  Ignition or discharge of
fireworks shall take place so as to not endanger persons, animals, buildings, structures, property, brush, automotive vehicles and/or equipment, etc. (Ord. 378, 2012)

9.36.040 Penalty for violation. Any person or persons violating the provisions of this chapter shall upon conviction, be subject to a fine of no less than 10 dollars and no more than 50 dollars, and shall be liable for all damages caused to persons or property by reason of such unlawful act.
For statutory powers relating to parks and boulevards, See N.D.C.C. §40-05-01(9).
For statutory provisions as to parks and park districts, See N.D.C.C., Chapter 40-49.

Chapters:

11.04 Park District
11.03 Rules and Regulations
11.12 Trees
Charter 11.04

PARK DISTRICT

Sections:

11.04.010   Created.  The city council hereby accepts and creates a park district of the city under the provisions of Article 24 of Chapter 49 of the Political Code of the Compiled Laws of the State of North Dakota for the year 1913, as amended by Chapter 71 of the Session Laws of 1915; Chapter 178 of the Session Laws of 1917; Chapter 96 of the Session Laws of 1921; Chapter 194 of the Session Laws of 1927; Chapter 180 of the Session Laws of 1929; Chapter 198 of the Session Laws of 1931; and Chapter 204 of the Session Laws of 1935; and all acts or amendments which may be hereafter enacted or made. (1942 Rev. Ords. §12-101)

11.04.020   Boundaries.  Such park district shall embrace the whole of the territory within the city limits of the city, and such other areas as may from time to time be permitted by the laws of North Dakota. (1942 Rev. Ords. §12-102)
Chapter 11.08

RULES AND REGULATIONS

Sections:

11.08.010 Regulations governing planting of shade trees. Any person or persons who may own or have an interest in any lot, parts of lots, or parcel of land in this city, may and they are hereby authorized to set out or plant in any of the streets of this city adjacent to the lots, parts of lots, or tracts of land, on the line between the sidewalk and the carriage way of such street in such places as the street commissioner may designate or permit, any shade or ornamental trees; and such person or persons shall have permission to take all proper ways and means to promote the growth or protect said shade and ornamental trees. (1942 Rev. Ords. §12-201)

11.08.020 Height of shade trees over sidewalk. The same shall at all times be kept trimmed so that there will be eight feet clear between the sidewalk and the lambs. The setting out and trimming shall be done to the satisfaction of the street commissioner. (1942 Rev. Ords. §12-202).

11.08.030 Permit required for destruction of trees. No person, without the permission of the mayor and city council, shall, in any manner, cut, injure, or deface any shade or ornamental trees standing or growing in any street of the city, or in any public place, park, or square therein; nor shall any person cut, deface, or injure any box, fence, paling, enclosure, or other thing set or built for the protection of such trees therein; nor shall any person cut, injure, or deface any fence standing upon or around any public square, park, or other public grounds in or belonging to this city, or any structure, fence post, enclosure or other fixtures or anything set or being set therein for any purpose, or any public building, bridge, schoolhouse, outhouse belonging to or situated in the city, any street, signboard, or anything whatever being public property or the property of this city; and any person who shall violate any of the provisions of this section shall be subject to the penalty as defined in Section 1.01.110.. (1942 Rev. Ords. §12-203).

11.08.040 Tying animals prohibited in parks. No person shall be permitted to hitch or tie any horse or other animal to any shade tree standing or growing in any street, public square, park, public place, or public grounds within the city, or to any box, fence post, paling, or other thing or fixture set, built, or erected for the protection of the same; or any park fence, around or upon the public grounds, or to the fence posts or awning post in the street. (1942 Rev. Ords. §12-204)
11.08.050 Animals running at large in parks. No cattle, horses, mules, swine, sheep, goats, fowl, or other animals shall be turned into or be allowed to run at large in or upon any park or parkway; and the tying or securing by means of a rope or otherwise of any such animal for grazing purposes, or the suffering of any such animal to graze whether attended by watchers or not shall be deemed running at large within the meaning of this chapter. It shall be the duty of each policeman and employee of the city to take up any animal or animals known to him to be running at large in any park or parkway, and impound the same as provided by law. (1942 Rev. Ords. §12-205).

11.08.060 Vehicles restricted to driveways. No vehicle of any description shall be allowed upon any part of the parks except upon the driveways or other places appropriated for such vehicles, nor shall any person ride any velocipede, bicycle, motorcycle, automobile, or other vehicle therein at a greater speed than twenty miles per hour (1942 Rev. Ord. §12-206).

11.08.070 Molesting or destroying of birds and animals. No person shall rob, injure, or destroy any bird’s nest within the limits of any park or parkway, nor aim or discharge any air gun, slingshot, or other weapon, any stone or missile at any animal, bird or bird’s nest within any park or parkway, nor in any manner capture or kill any animal or bird therein. Nor shall any person tease, annoy, disturb, or interfere with any bird, animal, or fish kept by the city in any park or parkway. (1942 Rev. Ords. §12-207).

11.08.080 Discharging firearms in parks. No person shall fire or discharge any firearms of any description, nor fire, explode, or set off any squib, firecracker, or other object containing powder or other combustible or explosive material within any park or parkway; provided, however, that this shall not prohibit the exhibition of fireworks under the direction of the city council. (1942 Rev. Ords. §12-208).

11.08.090 Posting of signs in parks. No person shall post, paint, paste, or affix any placard, bill, notice, or sign upon any structure, tree, or other object within any park or parkway of the city. (1942 Rev. Ords. §12-209).

11.08.100 Games permitted when. Athletic games, sports, picnics, and other forms of recreation or amusement sanctioned by the city council may be held or practiced in such parts of the park as shall be designated for such use, subject to such regulation as may be made by the city council, and to the orders of the chief of police or any policeman on duty, or other park officer. (1942 Rev. Ords. §12-210).

11.08.110 Permit required to deposit rubbish in parks. No person shall deposit any paper or other waste material within any park or parkway except in the receptacles provided for receiving such paper or other waste material, nor shall any person deposit in any park or parkway any rubbish, earth, clay, sand, stone, ashes, slops, or garbage without a permit from the mayor. (1942 Rev. Ords. §12-211).

11.08.120 Injury to parking strips. No person shall throw or suffer to be thrown any boards, rubbish, or trash of any description on any boulevard or grass berm within the city, nor shall any owner or occupant of property permit any such boards, rubbish, or trash to remain thereon; nor shall any substance be placed thereon or permitted to remain which will injure or destroy the growth of the grass on such berm or grass boulevard. (1942 Rev Ords. §12-212).

11.08.130 Injuring parking strip trees. No person shall injure the grass, trees, or flowers set out upon any parking strip within the city. (1942 Rev. Ords. §12-213).

11.08.140 Trespassing upon parking strips. No person shall, except in case of necessity, walk over
or upon any such berm or grass boulevard, nor shall any person ride or drive any animal or vehicle over or upon the same; provided, that the owner or occupant of property may drive over the same temporarily when necessary to obtain access to his premises; provided, permission so to do is first obtained from the street commissioner, and such temporary crossing to protect curb, sidewalk, and grass is laid as the street commissioner may direct, the same to be removed immediately after such temporary use. (1942 Rev. Ords. §12-214).
Chapter 11.12

TREES

Sections:

11.12.010  City forester. (a) The position of city forester is created to be filled by appointment by the city council upon the recommendation of the shade tree committee created in Section 11.12.020 of this chapter.

(b) The duties of the city forester are to enforce this chapter and to coordinate all tree programs in the city. (Ord. 308 §1(a), 1991).

11.12.020  Shade tree committee. (a) A shade tree committee is created to be filled by appointment by the city council. The committee shall consist of the following or similar composition and shall be appointed as follows:

1. For a term of one year for the first year: One member shall be the Pierce County Agent, one representative of the public utilities, one citizen at large;
   (2) For a term of two years: One representative of the city park board, one representative of the street or engineering department, one citizen at large.

   Annually thereafter, Group 1 and Group 2 as set out in (a) (1) and (a) (2) above, shall be reappointed alternately.

(b) The duties of the shade tree committee shall be to advise and aid in the coordination of the tree care programs in the city and to recommend personnel for the position of city forester. (Ord. 308 §1(b), 1991).

11.12.030  Tree care and maintenance--Authorization of personnel. All personnel involved in the care and maintenance of trees in the city must show a degree of proficiency in accordance with the regulations of the office of the city forester and must receive authorization from the city forester before practicing tree care and maintenance. For groups working together, only the job supervisor shall be required to be authorized by the city forester, the job supervisor to be held responsible for any violation of this chapter. (Ord. 308 §11, 1991)

11.12.040  Nuisance--Conditions designated. The following are considered public nuisances whenever they may be found within the city:

(a) Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus, Ceratocystis ulmi, and which harbors any of the elm bark beetles, Scolytus
multistriatus or Hylurgopinus rufipes;

(b) Any tree harboring insect or disease organisms of a contagious and fatal nature which pose a serious threat to surrounding trees if not immediately removed and disposed of;

(c) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed or chipped or buried in a landfill;

(d) Any tree, shrub or hedge, or part thereof, growing upon public property or upon private property but overhanging or interfering with the use of any public walk, street or highway, park or public place within the city, which in the opinion of the city forester endangers the life, health, safety, or property of the public, shall be declared a public nuisance;

(e) Dutch elm firewood is not allowed in the city limits from April 15th to September 15th. (Ord. 308 §2, 1991).

11.12.050 Nuisance abatement--Generally. It is unlawful for any person to willfully permit any public nuisance as defined in Section 11.12.040 of this chapter to remain on any premises owned or controlled by him within the city. Such nuisance may be abated in the manner prescribed by this chapter. (Ord. 308 §3, 1991).

11.12.060 Nuisance--Authorized inspections. (a) The city forester, his employees or agents shall inspect all premises and places within the city as often as practicable to determine whether any condition described in Section 11.12.040 of this chapter exists therein.

(b) The city forester or his employees or agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them under this chapter.

(c) The city forester, upon finding a suspect Dutch elm diseased tree, immediately shall take and send appropriate specimens or samples to a qualified plant disease diagnostician. No action to remove suspect trees or wood shall be taken until positive diagnosis of the disease has been made.

(d) Within five days of receipt of the diagnosis, the owner of the property from which the specimen was obtained shall be notified by the city forester of the result by registered mail.

(e) A major survey shall be made on a regular basis.

(f) The inspection shall determine all hazards as specified in Section 11.12.040D. The owner shall be notified in writing of the existence of the nuisance and given a reasonable time for its removal. (Ord. 308 §4, 1991).

11.12.070 Nuisance abatement--City property. (a) In abating the nuisances on public streets, alleys, boulevards or public ways, as defined in Section 11.12.040 (A) and (B), the city forester shall cause the infected tree or wood to be removed or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch elm disease fungus and elm bark beetles. Such abatement procedures shall be carried out in accordance with the latest technical and expert methods and plans as may be designated by the Commissioner of Agriculture of the state. The city forester shall establish specifications for tree removal and disposal methods consistent therewith.

(b) In abating tree hazards on public property as defined in Section 11.12.040C, the city forester shall cause such hazards to be removed and disposed of in accordance with tree care regulations of the Forestry Department, the cost to be assessed as defined in Section 11.12.100 of this chapter. (Ord. 308 §5, 1991)

11.12.080 Nuisance abatement--Private property. (a) Whenever the city forester finds with reasonable certainty that the Dutch elm disease defined in Section 11.12.04CC exists in any tree or wood located on private property, outside of any public way in the city, he shall notify the owner or person in control of such property on which the nuisance is found by registered or certified mail within five days of receipt of the diagnosis. The city forester shall direct that the diseased tree be removed and effectively treated in a manner approved by the city forester within ten days of receipt of such notice. If such owner cannot be found, a copy of the notice shall be posted upon the infected tree. If
the tree is not so removed and/or treated as specified within ten days after posting of the notice, the city forester shall remove and/or treat the tree. The owner or person in charge may be charged with a violation of this chapter for maintaining a nuisance and that the city by and through its office of the city forester may abate the nuisance, the cost to be assessed as defined in Section 11.12.100 of this chapter.

(b) Abatement of Tree Hazards on Private Property. The nuisance defined in Section 11.12.040D shall be abated by the owner following notification of the existing nuisance. If not corrected or removed within the time allotted, the city forester shall authorize the removal or correction to be done in accordance with recommended procedures of the office of the city forester, the property owner to bear the cost.

(c) The city auditor shall keep in the city office a book called “Nuisance Abatement, Special Assessment Book” and shall enter the cost of the abatement of a nuisance as declared by the city council therein as a special assessment against the lot or parcel of land from which the nuisance was abated, with the name of the owner.

(d) At the regular meeting of the city council in October of each year, the city council shall review all such assessments and hear all complaints against the same and approve the same as finally adjusted, and the city auditor shall certify to the county auditor a list of the lots and parcels of land specially assessed for such purpose, and the sum shall be collected as other city taxes are collected. (Ord. 303 §6, 1991)

11.12.090 Interference with forester prohibited. It is unlawful for any person to prevent, delay or interfere with the city forester, his employees or agents while they are engaged in the performance of duties imposed by this chapter. (Ord. 303 §7, 1991)

11.12.100 Nuisance abatement—Costs. The costs for abating of public nuisances as defined in Section 11.12.040 of this chapter shall be borne as follows:

(1) For abatement of the nuisance as defined in Section 11.12.040 (A) and (B) and with the nuisance occurring on public land, the cost will be borne by the city, as provided herein.

(2) For abatement of the nuisance as defined in Section 11.12.040 (A) and (B) and with the nuisance occurring on private land or on any street, alley, boulevard or other public way adjoining the private property, the cost shall be borne by the private owner.

(3) For abatement of the nuisance as defined in Section 11.12.040D, the costs shall be borne by the private owner if occurring on private land.

(4) For abatement of the nuisance as defined in Section 11.12.040D, the nuisance occurring on public land, the cost will be borne by the city.

(5) The cost of tree planting for replacement of diseased trees on boulevards and private property will be borne by the private owner. (Ord. 303 §8, 1991).

11.12.110 Tree pruning and topping. (a) It is unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. “Topping” is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree.

(b) Exemptions are made to subsection A of this section in the event of an emergency condition, as determined by the public utilities companies.

(c) Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches to that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of sidewalk and twelve feet above the street.

(d) Public utilities shall use discretionary pruning instead of indiscriminate topping where overhead wires are a problem. (Ord. 303 §9, 1991).
11.12.120  Replacement of trees.  (a) Replacement of diseased trees on public property removed to prevent the spread of Dutch elm disease will be in accordance with tree planting standards and programs of the office of the city forester.

(b) Tree Replacement on Private Property. The city will not be liable for the replacement of diseased trees on private property removed to prevent spread of Dutch elm or any other diseases; however, an option will be presented to the private property owner whose tree has been removed in accordance with tree-planting standards and programs of the office of the city forester. This option will allow the private owner to replace the diseased tree under the tree replacement program of the office of the city forester, the cost to be borne by the private property owner.

(c) No trees may be planted on public property closer together than the following: Small trees, twenty feet; medium trees, thirty feet; and large trees, forty feet.

(d) The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section 11.12.130 of this chapter, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees; four feet.

(e) No street tree shall be planted closer than twenty feet of any street corner, measured from the point of nearest intersecting curbs or curblines.

(f) No street tree shall be planted closer than ten feet to any fireplug. (Ord. 308 §10, 1991)

11.12.130  Prohibited species.  (a) The following trees may not be planted on the parkways, berms or boulevards of Rugby: Cottonwood and poplar, Siberian elm, willow and conifers. In order to achieve certain landscape effects, the city forester may at times use trees not generally recommended.

(b) Tree sizes and spacing of trees shall be in accordance with the standards of the office of the city forester. (Ord. 308 §12, 1991)

11.12.140  Violation--Penalty.  Any person, firm or corporation who violates any of the provisions of this chapter shall upon conviction thereof be subject to the maximum fine permitted by law. (Ord. 308 §14, 1991)

Chapters:

12.04 Streets
12.08 Sidewalks
12.12 Use of Streets and Sidewalks
12.16 Excavations and Obstructions
Chapter 12.04

STREETS

Sections:

12.04.010 Regulations governing additions.
12.04.020 Supervision.
12.04.030 Street commissioner's duties.
12.04.040 City engineer's duties.

12.04.010 Regulations governing additions. Any additions to the city of any lands which may be laid out and platted as additions to the city and divided into streets, alleys, blocks, and lots, shall be so laid out, surveyed, and platted as to conform to the streets, avenues, alleys, and blocks of the addition to which they may join or connect. The streets, avenues, and alleys shall be true productions of connecting streets, avenues, and alleys, unless in any case it is apparent that it would be impracticable to make them so. They shall be of uniform width throughout their entire lengths and be free from offsets, and in no case shall any street, avenue, or alley be blocked by the platting of same with lots or portions of blocks.

Plans and profiles of the preliminary street grades shall be prepared.

The plats, profiles, and surveys must be made in accordance with the city regulations and ordinances governing the alignment and grades of the city.

Upon the completion of the plats, profiles, and surveys they must be submitted to the city council for its approval before being filed.

Any addition to the city which shall be platted and which does not conform to the ordinances and regulations as above stated, shall not be recognized as being a portion of the city and no work shall be done within such addition by the city until the same is made to conform to such ordinances and regulations. No plats shall be filed for record in the office of the register of deeds before such plat is approved by the city council. (1942 Rev. Ords. §8-103).

12.04.020 Supervision. The streets shall be under the supervision and control of the street commissioner and city engineer, subject to the direction of the street and walks committee and the city council. (1942 Rev. Ords. §8-104).

12.04.030 Street commissioner's duties. It shall be the duty of the street commissioner to establish and construct under the direction of the streets and walks committee and the supervision of the city engineer such changes, alterations and improvements in and to the crosswalks, curbs and gutters as he shall be directed to make. He shall look after and keep in good order the sewers, drains, culverts, streets, catch basins, manholes, and cesspools of the city, and refer any necessary improvements to the city council. He shall see that the sidewalks, streets, parking, alleys, and bridges are kept in good condition and repair and free from paper, filth, and dirt.

It shall be his duty to report to the mayor or other proper authority any infringement of any rule, regulation, or ordinance relating to streets, or city property.

Upon the first Monday in April of each year he shall submit to the city council a complete report of all work done under his direction during the preceding year, including the amount of work done, material
used, expenditures, inventory, and also any other information regarding the street department. (1942 Rev. Ords. §8-105).

12.04.040 City engineer’s duties. The city engineer shall have direct charge of all construction work, of whatsoever nature, being done upon the streets of the city. lie shall have general supervision over the repair and construction work done by the street commissioner and shall furnish the commissioner with all data, plats, and stakes that he may from time to time require. (1942 Rev. Ords. §8-106).

12.04.050 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. Violations of said ordinance would require a fine of no less than $10 per violation. Each twenty four hour period that the vehicle(s) have not been moved will be deemed as another violation(s). (Ord. 346, § 3-04; Ord 370, 2009)

12.04.060 Notice - Snow Removal or Street Cleaning. Whenever it becomes necessary to remove snow or ice or to sweep and clean streets, or to mark streets for traffic purposes in the City there shall be designated by the city engineer or 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. Notification will be made via local radio and/or the community channel. At the end of each snowfall and official notification has been made, twelve hours will be allowed for the removal of vehicles for snow removal. Vehicles not moved are subject to fines and impoundments at the owner's expense. (Ord. 346, § 3-04; Ord 370, 2009)

12.04.070 Impounding Vehicles and Equipment. Whenever any parked automobile, truck, machinery, vehicle or equipment shall be found in any place prohibited by these restrictions, and during the hours as provided herein, the same shall be impounded by the City at a place to be provided and it shall be unlawful for any person, firm or corporation to remove or attempt to remove any truck, automobile, machinery, vehicle or equipment from the place where impounded without first paying the cost of such impounding. All vehicles will be given a parking summons. After a period of seventy-two (72) hours, such vehicles will be impounded at the owner's expense. (Ord. 346, § 3-04; Ord 370, 2009)

12.04.080 Depositing of Snow or Ice on City Streets or Sidewalks Prohibited

1) No person shall deposit or cause any snow or ice to be deposited upon any city street or sidewalk.

2) No snow or ice shall be deposited upon public or private property so as to create a traffic hazard or to interfere in any manner with the vision or view of a driver of a motor vehicle or pedestrian at or near street intersections or where traffic merges or near school/ pedestrian crossings.

3) No person shall deposit any snow or ice removed from any parking lot, filling station area, driveways, or from any other private property upon any public or city property or city street or sidewalk.

4) No person shall deposit or cause to be deposited any snow or ice to be deposited on or against any fire hydrant or traffic signal control device or traffic sign or appurtenance; or any loading and unloading area of a public transportation system or emergency access land.

5) This Ordinance shall not apply to the following:
   a) Snow shoveled from sidewalks to the street or alley in the downtown business district, provided the downtown property has no place other than the sidewalk and street to put the snow.
   b) City Employees, while in the course of their employment for the city, may place snow on the streets or alleys while removing snow from the city. (Ord. 364; 2007)
12.04.090 Penalty. Any person, firm, corporation or association violating any of the terms, articles or provisions of this chapter, which a specific penalty is not prescribed, shall upon conviction thereof, be punished by a fine of not less than $50.00, nor more than $500.00, or by imprisonment not to exceed 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. 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. (Ord. 364; 2007)
Chapter 12.08

SIDEWALKS

Sections:

12.08.010 Cement construction.
12.08.020 Width.
12.08.030 Specifications of curb.
12.08.040 Regulations governing building.
12.08.050 Inspection.

12.08.010 Cement construction. All sidewalks hereafter built, constructed, rebuilt, or repaired along any street, avenue, or public place within the corporate limits of the city shall be of cement and shall conform to the specifications and regulations in Sections 12.08.020 through 12.08.050. (1942 Rev. Ords. §8-201).

12.08.020 Width. Sidewalks on both sides of the avenue from First Street North to Third Street South and on Second Street South from Second Avenue Southeast to Third Avenue Southwest, and on Third Street South from Second Avenue Southwest to Second Avenue Southeast, shall be ten feet wide. (Ord. 148 (part), 1967; 1942 Rev. Ords. §8-202).

12.08.030 Specifications of curb. The curb on all sidewalks shall be at least six inches wide and fourteen inches deep. Crosswalks shall be of Portland cement seven inches thick in the center, the bottom coat shall be five and one-half inches thick and composed of one part cement to five parts gravel and the top shall be one and one-half inches thick and composed of one part cement to two parts gravel. (1942 Rev. Ords. §8-203).

12.08.040 Regulations governing building. All excavation shall be carried to within one inch of the sub grade as established by the city engineer and thoroughly tamped to this grade. Where fills are necessary they shall be built up in tamped layers not exceeding four inches in thickness.

On the above prepared sub grade there shall be placed not less than two inches of sand or sand and gravel properly leveled. This material may be a local pit run material from which all particles greater than those passing a one inch square mesh screen have been removed.

Sidewalks shall be one course concrete construction having a minimum depth of four inches. The concrete is to be composed of Portland cement, water, fine and coarse aggregate combined in such proportions that the mixed and resulting concrete shall have an ultimate crushing strength at the age of twenty-eight days of not less than three thousand pounds per square inch. The amount of cement, however, shall in no case be less than six sacks per cubic yard of concrete and the ratio of fine and coarse aggregate to cement shall not be greater than two and one-half and three and one-half to one respectively. Aggregates shall be measured by volume one sack of cement being considered as one cubic foot. Proportioning or measuring by shovels will not be permitted. Mixing shall be done in an approved batch mixer, each batch to be mixed for a period of not less than one minute after all material is placed therein.

The Portland cement shall be a standard brand, fresh, free from lumps and shall conform to the latest specifications of the American Society for testing materials.

Water shall be reasonably clean and free from acids, alkalies, oils or organic matter. Only enough
water shall be used to provide a workable mix, the maximum slump permitted being two and one-half inches.

The concrete aggregates shall consist of natural sand and gravel, crushed rock or other inert materials having clean uncoated grains or particles of strong and durable materials. Aggregates shall be washed and graded from fine to coarse. The fine aggregate shall pass a three-eighths inch square mesh screen and not more than five percent by weight shall pass a 100 square mesh screen. Not more than five percent by weight of the coarse aggregate shall be retained on a one and one-half inch square mesh screen and not more than five percent shall pass a one-quarter inch square mesh screen.

Fine aggregates shall contain not more than two percent by weight of shale and the sum of all deleterious substances such as shale, coal, clay, soft, flaky, laminated or coated particles shall not exceed five percent by weight.

Coarse aggregate shall not contain more than one percent by weight of shale with the weight of the total of all deleterious substances not exceeding five percent.

At not to exceed twenty-five foot intervals the contractor shall insert for the full depth of the walks one-half inch transverse expansion joints. Expansion joints shall also be placed at all changes in direction of concrete walks, at the junction of walks and curbs and between walks and buildings. This expansion joint material may be the Serviced Products Corporation Type “B” Asphalt Joint, the Celetex Corporations’ “Flexcell” or an approved equal.

As soon as the concrete of the walks has set sufficiently to do so all concrete walks shall be cut into blocks not exceeding five feet in length. This cutting shall be done with a steel trowel or other suitable tool, the cut to be for the full depth of the walk.

Sidewalk surfaces are to be given steel troweled, lightly broomed surface finish. Walk edges of block shall be finished with a one-quarter inch radius.

All sidewalks in residential districts shall be constructed not less than five feet in width. (Ord. 53 (part) 1953: 1942 Rev. Ords. §8-204)

12.08.050 Inspection. All materials used in the construction of any sidewalk in the city shall be subject to the inspection and approval of the street commissioner before being built into walks. (1942 Rev. Ords. §8-205).
Chapter 12.12

USE OF STREETS AND SIDEWALKS

Sections:

12.12.010  Posting handbills, placards, and posters.  Whoever shall paste up, stick up, nail up or post handbills, placards or posters, or make, print, or mark any word, letter or advertisement of any kind upon any private house, store, or other building, or upon any fence, wall, railing, telephone pole, electric light pole, or other private property, without the consent of the owners of such house, store, building, fence, wall, railing, telephone pole, electric light pole, or other private property, or shall paste up, stick up, nail up, or post any handbills, placards, or posters of any kind, or make, paint, or mark any word, character, letter or advertisement upon any public building, bridge, fence, railing, or sidewalk, or any other property within the village except in compliance with the requirements of law in posting of legal notices shall be subject to the penalty as defined in Section 1.01.110. (1942 Rev. Ords. §8-301).

12.12.020  Driving upon sidewalks.  No person shall ride, drive, push, draw, or back any horse, team, wagon, cart, sled, sleigh, or other vehicle upon or over or across any sidewalk, except at the regular crossings and where the alleys intersect the streets. Provided, that the occupant of any yard, lot, or warehouse may have access across the same by placing in front thereof, at his or her expense, with the consent of the street commissioner, a temporary bridge or carriage way over the sidewalk, gutter, and curbing in such manner as will preserve the same from injury. (1942 Rev. Ords. §8-302).

12.12.030  Movement of heavy vehicles.  It shall be unlawful to drive, move, or otherwise propel any traction engine, gas tractor, or other like heavy vehicle or thing, weighing over four thousand pounds, equipped with angle iron lugs or cleats, or one of any weight, equipped with spade or spike lugs, upon, over, or across any paved street, wooden bridge or culvert, concrete sidewalk, street, or alley crossing within the platted portion of the corporate limits of the city, without first obtaining permit in writing so to do, from the mayor or chief of police, when such tractor or thing may be moved only under the supervision of either the chief of police or street commissioner. Any person violating the provisions of this section shall be subject to the penalty as defined in Section 1.01.110 and in addition thereto shall be liable in a civil action for all damage and injury caused by such unlawful act. (1942 Rev. Ords. §8-303).
12.12.040   Heavy vehicles over manhole and gate boxes. Under no circumstances shall the wheels of such engine or other heavy body of injurious weight be permitted to go over or come in contact with any manhole, gate box, or stop within the city. (1942 Rev. Ords. §8-304).

12.12.050   Liability for damages caused by heavy vehicle. Any person moving or causing to be moved any such traction engine or other heavy body of injurious weight over or across any cement or stone crosswalk, bridge, manhole, gate box, or stop box within the city shall be liable for any damage the city may sustain by reason of the breakage of such cement or stone crossing, manhole, gate box, or stop box or any part thereof, or injury done to any bridge across which the same may have been propelled or hauled, in a suit brought by the city for that purpose, in addition to the penalty provided in Section 1.01.110. (1942 Rev. Ords. §8-305).

12.12.060   Spitting and throwing of litter on sidewalks. No person shall spit or expectorate nor throw fruit, fruit parings, or skins, nuts, nut shells, or other refuse, upon the sidewalk or crossings of any streets, avenues, alleys, or driveways within the corporate limits of the city, or in or upon the floors, stairs, or hallways within, or sidewalks leading to or from any public building, theater, public hall, or office or store, or any railway depot or platform connected therewith or connected thereto whether such public buildings, theaters, hall, or depot, office, or store belongs to the city or not. (1942 Rev. Ords. §8-306).

12.12.070   Throwing rubbish in streets. No person shall throw or deposit, or permit to be thrown or deposited any dirt, paper, or filth, the sweepings of any house, store, or shop or office, or any ashes, shavings, filthy water, offal, straw, hay, manure, or rubbish of any kind on or into any street, sidewalk, or alley of the city. (1942 Rev. Ords. §8-307).

12.12.080   Games on streets. It shall be unlawful for any person or persons to run races, or play public games upon the streets, alleys, or avenues of the city, except with the consent of the mayor or chief of Police. (1942 Rev. Ords. §8-308).

12.12.090   Owner’s duties. It shall be the duty of the owner or occupant of any property along which curbing and/or gutter is maintained, to keep the same an good repair, and upon the failure of any such property owner to proceed to make such necessary repairs to the curb and/or gutter abutting the property within thirty days after notice given by the Street commissioner, to make certain repairs, he shall be liable to the penalty provided in Section 1.01.110. (Ord. 126 §1, 1965: 1942 Rev. Ords. §8-309).

12.12.100   Removal of ice and snow. The occupant of each lot or parcel of land and the owner of each unoccupied lot or parcel within the city, adjoining any street, and along which sidewalks have been built, shall clear the sidewalks on or along such lot or parcel of land of all accumulations of snow and ice within two hours after the same has fallen or accumulated or by two p.m. of the day following if the same shall have fallen in the nighttime, and shall keep such sidewalks free from accumulations of snow and ice; provided, that no person shall be required to clean such sidewalks during the continuance of any snow storm or on Sunday. In case the owner of any lot in the city refuses or neglects to remove from such sidewalk in front of or along any lot therein, the ice or snow there from, within the time above stated, the same may be removed by the city and the necessary expense thereof shall be chargeable against the abutting lot or property by special assessment thereof in the manner prescribed by North Dakota Century Club, Sections 40-29-18 to 40-29-21. (Ord. 320, 1994: 1942 Rev. Ords. §8-310)

12.12.110   Abandoned or unclaimed personal property defined. Any personal property remaining upon any of the streets, alleys, parking districts or other public ways in the city for any period
exceeding ten days shall be deemed to constitute abandoned and/or left unclaimed personal property. (Ord. 59 §1, 1955)

12.12.120 Taking and storage of unclaimed property. Any personal property abandoned or left unclaimed exceeding ten days upon the streets, alleys, parking districts or other public ways in the city, shall be taken up by any policeman or street commissioner of the city, and placed in a suitable place for storage and shall be held in such storage for a period of not less than sixty days, during which said time the owner thereof, upon proof of ownership satisfactory to the city auditor, shall be entitled to delivery of the property to him upon payment of the expenses of the taking up and storage thereof. (Ord. 59 §2, 1955)

12.12.130 Sale of unclaimed property. In the event that personal property is not claimed by the owner thereof during the sixty day, or longer, holding thereof, or before the same is sold as hereinafter provided, the city auditor shall cause a notice of sale thereof to be published in the official paper of the city at least ten days before the date of sale, which the notice shall specify that the property will be sold at public auction, the time and place of the sale and a description of the property to be sold. (Ord. 59 §3, 1955)

12.12.140 Transfer of unclaimed property. Upon such sale the city, by its auditor, shall convey to the purchaser a merchantable title to the personal property by a bill of sale thereof. (Ord. 59 §4, 1955).

12.12.150 Disposition of proceeds of sale. The proceeds of such sale shall be placed in special fund to be known as "Special Abandoned Property Fund" by the city auditor. At any time within six months after the sale, upon written application and upon proof of the ownership of the personal property sold to the satisfaction of the city auditor, the proceeds of the sale, less the necessary expenses of taking, storage and selling of the property shall be paid to the owner. That if such proceeds are not claimed by the owner of the personal property sold within six months after the sale same shall be withdrawn from the special fund and credited to the general fund of the city (Ord. 59 §5, 1955).
Chapter 12.16

EXCAVATIONS AND OBSTRUCTIONS

Sections:

12.16.010  Permit required for excavations.  When any person or persons, with the consent of the mayor or chief of police, makes any hole, pit, ditch, vault, cellar, or other excavation whatever in any street, avenue, or alley within the city, or any person or persons who, without such permission, makes any of the aforesaid excavations, in any vacant or unfenced lot or lots abutting on any such street, avenue, or alley, shall, during each and every night, cause the same to be surrounded by a good and substantial fence at least three feet high and the rails or boards of which shall not be more than one foot apart; and shall cause one or more red lights to be hung upon the fence in such a position that the same may be easily seen from any direction. (1942 Rev. Ords. §8-401).

12.16.020  Application for permit.  All applications for permits shall state the character and location of the work, and the time required to complete the same, and that the applicant will in every particular, conform to all the provisions of this and all other ordinances of the city in regard to the streets, alleys, and public grounds. (1942 Rev. Ords. §8-402).

12.16.030  Contents of permit.  The permit shall state the character and location of the work, name of the person or persons to whom said permit is granted, the date and the length of time for which the same is granted, which shall be only such reasonable time as will be necessary to complete the improvements, and shall be granted upon condition that the applicant will leave the street, sidewalk, alley, or other public grounds, at the expiration of such permit, in as good condition as when the permit was granted Such permit shall be kept at the location mentioned therein during the progress of the work and must on demand be shown to any officer of the city. (i942 Rev. Ords §8-403).
12.16.040 **Duty to maintain excavations.** It shall be the duty of any person to whom a permit has been issued for work involving excavation in any public street or alley upon completion of such work to maintain such street or alley at the place where such excavation was made for a period of three years thereafter to the satisfaction of the city engineer and no further permit shall be issued to any person who fails to properly maintain such excavation. In default of such maintenance by the person who made the excavation, the city shall provide for the same and shall be entitled to recover for the cost of such maintenance under the indemnifying bond required under Ordinance 82 codified in this section. (Ord. 82 §1, 1958W)

12.16.050 **Guarding excavations.** The applicant will at all times keep the place properly guarded by day and lighted by night, so as to prevent accidents, and will save the city harmless from any and all suits, damages, costs, and charges, that may accrue from the applicant's use of the street, sidewalk, alley, or other public grounds. (1942 Rev. Ords. §8-404).

12.16.060 **Making and filling excavations.** It shall be unlawful for any person to dig or remove any earth, sand, or sod from any street, avenue, alley, or public grounds within the city nor shall any person, by digging, plowing, scraping, or otherwise make or cause to be made any hole, pit, ditch, vault, or other excavation or depression in any street, avenue, alley, or public ground in the city without first obtaining permission from the city engineer. When permission to make any such excavation has been granted, such excavation shall be refilled with all convenient speed and within the time limited therefore in such permit and in refilling such excavation, etc., the earth shall be thoroughly tamped or puddled or both so that all earth or other material removed there from shall be replaced therein, and should there be a deficiency of earth to fill such excavation, the person doing such work must supply the same so that the surface of the street, avenue, alley, or public place so excavated shall be left uniform and firm and in a suitable and fit condition for traffic and travel. Any person violating any of the provisions of this section shall be subject to the penalty as defined in Section 1.01.110, and every day during which such excavation remains improperly or negligently filled contrary to the provisions hereof shall be a separate offense and shall be punishable accordingly. (1942 Rev. Ords. §8-405).

12.16.070 **City to furnish hose for filling.** Where it is possible to use the city water for flushing and filling in such excavations the city will on application permit such person in charge of such work to use the city hose for that purpose, and to connect same to the city waterworks system and to use such amount of water as may be necessary for such purpose. Application for such hose shall be made to the city auditor who shall keep a record of same and of the time same was taken. The person using such hose shall return it immediately upon the completion of such work and shall be charged and shall pay to the city auditor fifty cents per day for each day he shall fail or neglect to return it in good condition to the place where same is stored. (1942 Rev. Ords. §8-406).

12.16.080 **Liability for damages.** Any person making such excavation either with or without such permit shall be liable for any and all damages caused to any water pipe, sewer pipe, shutoff box, hydrant, conduit, cables, or manholes that they may come in contact with, during the progress of such work. (1942 Rev. Ords. §8-407).

12.16.090 **Uncovered openings to be guarded.** It shall be unlawful for any person in the city to leave or keep open, uncovered, and unguarded any cellar, door, pit, grating, of any vault or other subterraneous place or passage leading from, into, or upon any street, alley, or sidewalk; and it shall be unlawful for any person to suffer any such cellar door, pit, vault, grating, or other opening or place of a like nature in, about, or connected with the premises owned or occupied by him or her, to remain in an insecure or unsafe condition, so that persons may fall into or be otherwise injured by the same.
12.16.100 Openings in sidewalk. It shall be unlawful for any person to permit any opening in the sidewalk to remain uncovered unless such opening is protected on all sides by a substantial railing or guard to prevent any person from falling therein or being injured thereby; such opening to be kept closed at all times except when actually being used in filling space below or removing property therefrom. (1942 Rev. Ords. §8-409).

12.16.110 Assemblies on streets. It shall be unlawful for any person or persons to assemble upon any street, sidewalk, or upon any public grounds in the city so as to hinder the street travel or traffic thereon, or to hinder or impede free ingress and egress to and from any public place of business, public hall, church, or other public building, without a permit from the mayor; and any person or persons so assembled who shall neglect or refuse to move away, depart, and give free passage after being requested by any police officer, or by the owner, occupant, or manager of such place of business, hall, church, or other public building obstructed as aforesaid shall be subject to the penalty provided in Section 1.01.110. (1942 Rev. Ords. §8-410)

12.16.120 Permit required for removal of earth from streets. It shall not be lawful for any person or persons to remove any dirt or earth from any street, avenue, or alley within the city, or to make or dig any pit, hole, vault, ditch, or other excavation in any street, avenue, or alley in the city without first obtaining the consent of the mayor or chief of police. (1942 Rev. Ords. §8-411).

12.16.130 Placing of rubbish on streets. It shall be unlawful for any person to obstruct or blockade any street, avenue, alley, or sidewalk within the city with any lumber, brick, timber, wood, coal, stone, filth, earth, manure, or other material or commodity whatever, except as herein otherwise provided, or unless upon any such street, alley, or avenue with the consent of the street commissioner, for the purpose of improving the same. (1942 Rev. Ords. §8-412).

12.26.140 Obstructing sidewalks. It shall be unlawful for any person or persons to use or operate upon the sidewalks of the city any wagon, carriage, cart, or other conveyance, except baby carriages, whether pushed or pulled or propelled by a force exerted from within or from without, if the same tends to hinder, obstruct, or unnecessarily annoy persons traveling the sidewalks. (1942 Rev. Ords. §8-413)

12.16.150 Moving buildings. No person shall move or cause to be moved, or aid or assist in moving any building into, along, or across any street, avenue, alley or public ground of the city, without first obtaining permission of the street commissioner and conforming to the restrictions, conditions, and time he may prescribe in such permission. (1942 Rev. Ords. §8-414).

12.16.160 Failure to remove buildings, fences, after notice. Whenever the owner or builder of any building, fence, or other obstruction, in or upon any street, avenue, alley, sidewalk, or other public place or ground in the city, shall refuse or neglect to remove the same after notice as provided in Section 12.16.220, the same shall be deemed a nuisance, and it shall be lawful for the mayor to cause the same to be removed or taken down in his discretion, and the expense thereof shall be recoverable of the owner or builder in an action before any court of competent jurisdiction; and every person who shall resist or oppose the execution of the orders of the mayor in the premises shall be subject to the penalty as defined in Sec 1.01.110. (1942 Rev. Ords. §8-415).

12.16.170 Merchandise on sidewalks. No person, firm, or corporation, receiving or delivering goods, wares, or merchandise in the city shall place or keep upon, or suffer to be placed or kept upon, any sidewalk, any goods, wares, or merchandise which he or they may be receiving or delivering, without
leaving a passageway clear upon said sidewalk where such goods may be, of four feet wide for the use of foot passengers, and no person, firm, or corporation receiving or delivering such goods shall suffer the same to remain on such sidewalks for a longer period than ten hours. (1942 Rev. Ords §8-416).

12.16.180  Packing cases on sidewalks. No person, firm, or corporation shall place or suffer to be placed upon any sidewalk or street in the city any empty packing cases and allow such to remain there for a longer period than ten hours. (1942 Rev. Ords. §8-417).

12.16.190  Interference with wires. No person shall cut, remove, break, injure, destroy or interfere with any telephone, telegraph, tire alarm, or other electrical wires properly strung upon poles running through or across any street or public ground in the city, (except as provided by law in the moving of buildings,) except in case of fire or to prevent the destruction of property, and then only under the orders of the commanding officer of the fire department. (1942 Rev. Ords. §8-418).

12.16.200  Barbed wire fence. It shall be unlawful for any person to erect, construct, or maintain any barbed wire fence within the laid out or platted portions of the city. (1942 Rev. Ords. §8-419).

12.16.210  Piling of material on streets. When any person or persons are about to repair any house, store, or other building, and shall not have ground sufficient whereon to pile necessary building material needed therefore, such person may pile such materials in front of such building or improvement on the nearest part of the street, alley, or avenue abutting thereon, in a compact form, and in such a manner as to take up the least room, and not to obstruct or occupy at any one time, more than one-half of the street, avenue, or alley, provided that all such materials shall be removed as soon as the same shall cease to be needed in the construction of such building or improvement; or shall be removed at any time when, in the opinion of the mayor or chief of police, it is necessary to remove the same, or when such material has been left on such street, alley, or avenue an unreasonable length of time. (1942 Rev. Ords. §8-420).

12.16.220  Buildings and structures on streets, alleys, or public grounds. No person shall build, erect, or construct, or aid or assist in erecting, building, or constructing any house, barn, shed, or other building of any kind, or any fence or other obstruction in whole or in part upon or in any street, alley, avenue, sidewalk, or other public place or ground within the city, under a penalty as hereafter defined. Such person shall be subject to a like penalty for every forty-eight hours he or they shall fail to remove such house, barn, shed, or other building, fence, or other obstruction, after notice so to do from the mayor, chief of police or street commissioner. (942 Rev. Ords. §8-421).

12.16.230  Awnings. All awnings hereafter erected in the city shall so constructed that the lowest part thereof shall be at least eight feet above the level of the sidewalk, and the covering of such awnings shall be duck canvas or other like material, and they shall be held in place by iron brackets attached firmly and safely to the building, so as not to obstruct the sidewalk in any manner whatsoever. (1942 Rev, Ords. §8-422).
TITLE 13
TRAFFIC*

* For state provisions as to the powers of cities to regulate traffic, see N.D.C.C. §§39-07-03 and 33-09-03.

Prior history: Prior code Ch. 4 as amended by Ords. 43, 44, 45, 51, 62, 63, 64, 65, 109, 119 and 121; Ord. 101 as amended by Ords. 104, 108, 122 and 127; Ords. 162, 163, 164, 169, 171, 193, 209, 223, 230, 258 and 259.

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13.03 Traffic Administration
13.12 Enforcement and Obedience to Traffic Regulations
13.16 Traffic Control Devices
13.20 Speed Regulations and Care Required
13.24 Turning Movements
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Chapter 13.04

DEFINITIONS

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13.04.040 Bus.
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13.04.490 Private road or driveway.
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13.04.510 Railroad.
13.04.520 Railroad sign or signal.
13.04.530 Reconstructed vehicle.
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13.04.580 Saddle mount.
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13.04.610 School bus.
13.04.620 Semitrailer.
13.04.630 Sidewalk.
13.04.640 Solid tire.
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13.04.660 Stand or standing.
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13.04.690 Stop or stopping.
13.04.700 Street.
13.04.710 Through highway.
13.04.720 Traffic.
13.04.730 Traffic-control signal.
13.04.740 Trailer.
13.04.750 Truck.
13.04.760 Truck tractor.
13.04.770 Urban district.
13.04.780 Used vehicle.
13.04.790 Vehicle.

13.04.010 Definitions. Words and phrases used in this title have the meanings and are defined as provided in the North Dakota Century Code in Title 39, and NDCC §39-01-01 and all subsequent amendments are incorporated by reference in this title. (Ord. 265 Art. I §1-1(part) , 1984)

13.04.020 Authorized emergency vehicles. (a) “Class A authorized emergency vehicles” means:

(1) Vehicles of a governmentally owned fire department;
(2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this chapter or by a salaried employee of any municipal police department within the municipality or by any sheriff or deputy sheriff not to include special deputy sheriffs, or by the Warden of the State Penitentiary and his authorized agents;
(3) Ambulances;
(4) Vehicles operated by or under the control of the commissioner, district deputy commissioner and district deputy game warden of the North Dakota Game and Fish Department;
(5) Vehicles owned or leased by the United States Government used for law enforcement
purposes;
(6) Vehicles designated for the use of the Adjutant General and Assistant Adjutant General in cases of emergency;
(7) Vehicles operated by or under the control of the Director, Assistant Director, and Park Superintendents of the North Dakota Parks and Recreation Department.

(b) “Class B authorized emergency vehicles” means wreckers and such other emergency vehicles as are authorized by the local authorities.

(c) “Class C authorized emergency vehicles” means those vehicles authorized by state and local disaster emergency services organizations and those vehicles used by volunteer firemen while performing their assigned disaster and emergency responsibilities. (Ord. 265 Art. I §1-1(part), 1984).

13.04.030 Bicycle. “Bicycle” means a motorized bicycle and every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches (50.8 centimeters) in diameter. (Ord. 265 Art. I §1-1(part), 1984).

13.04.040 Bus. “Bus” means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation; provided, that every motor vehicle designed for carrying not more than fifteen persons and used for a ride-sharing arrangement, as defined in NDCC §8-02-07, is not a ‘bus.” (Ord. 265 Art. I §1-1(part), 1984).

13.04.050 Business district. “Business district” means the territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet (91.44 meters) or more is occupied by buildings in use for business. (Ord. 265 Art. I §1-1(part), 1984).

13.04.060 Commercial freighting. “Commercial freighting” means the carriage of things other than passengers, for hire, except that such terms shall not include:

(1) The carriage of things other than passengers within the limits of the same city;
(2) Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or in the immediate vicinity thereof, in this state, and not to exceed two miles (3.22 kilometers) from the corporate or recognized limits of the city; or
(3) Hauling done by farmers for their neighbors in transporting agricultural products to or from market. (Ord. 265 Art. I §1-1 (part), 1984)

13.04.070 Commercial passenger transportation. “Commercial passenger transportation” means the carriage of passengers for hire, except that the term shall not include:

(1) The carriage of passengers within the limits of a city;
(2) The carriage by local buslines of passengers to or from a railroad station from or to places within any city or within two miles (3.22 kilometers) of the limits of the city;
(3) The carriage of passengers under a ride-sharing arrangement, as defined in NDCC §8-02-07. (Ord. 265 Art. I §1-1(part), 1984).

13.04.080 Commissioner. “Commissioner” means the Commissioner of the North Dakota State Highway Department, acting directly or through his authorized agents. (Ord. 265 Art. I §1-1(part), 1984).

13.04.090 Controlled-access highway. “Controlled-access highway” means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway. (Ord. 265
13.04.100  Crosswalk. “Crosswalk” means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface. (Ord. 265 Art. I §1-1(part), 1984).

13.04.110  Dealer. “Dealer” means every person, partnership or corporation engaged in the business of buying, selling or exchanging motor vehicles, or who advertises, or holds himself out to the public as engaged in the buying, selling or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, or association doing business in several cities or in several locations within a city shall be considered a separate dealer in each such location. (Ord. 265 Art. I §1-1(part), 1984).

13.04.120  Department. “Department” means the motor vehicle department of this state. (Ord. 265 Art. I §1-1(part), 1984).

13.04.130  Director. “Director” means the Director of the Division of Public Safety of this state. (Ord. 265 Art. I §1-1(part), 1984).


13.04.150  Driver. “Driver” means every person who drives or is in actual physical control of a vehicle. (Ord. 265 Art. I §1-1(part), 1984).

13.04.160  Essential parts. “Essential parts” means all integral and body parts of a vehicle of a type required to be registered under this title, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation. (Ord. 265 Art. I §1-1(part) 1984).

13.04.170  Explosives. “Explosives” means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or by destroying life or limb. (Ord. 265 Art. I §1-1(part), 1984).

13.04.180  Farm tractor. “Farm tractor” includes every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines and other implements of husbandry. (Ord. 265 Art. I §1-1(part), 1984).

13.04.190  Farm trailer. “Farm trailer” includes those trailers and semi-trailers towed by a bona fide resident farmer hauling his own agricultural, horticultural, dairy and other farm products if the gross weight, not including the towing vehicle, does not exceed twenty-four thousand pounds (10,886.22 kilograms). (Ord. 265 Art. I §1-1(part), 1984).

13.04.200  Flammable liquid. “Flammable liquid” means any liquid which has a flash point of seventy degrees Fahrenheit (21.11 degrees Celsius), or less, as determined by a tagliabue or equivalent


13.04.230  Highway. “Highway” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and of every way privately maintained within a mobile home park, trailer park, or campground containing five or more lots for occupancy by mobile homes, travel trailers, or tents when any part thereof is open for purposes of vehicular travel. (Ord. 265 Art. I §1-1(part) 1984).

13.04.240  House car. “House car” means a motor vehicle which has been reconstructed or manufactured for private use as sleeping or living quarters. (Ord. 265 Art. I §1-1(part) 1984).

13.04.250  Implement of husbandry. “Implement of husbandry” means every vehicle designed and adapted exclusively for agricultural, horticultural or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway. (Ord. 265 Art. I §1-1(part), 1984).

13.04.260  Intersection. “Intersection” means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways thirty feet (9.14 meters) or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet (9.14 meters) or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection. (Ord. 265 Art. I §1-1(part), 1984).


13.04.280  Judgment. “Judgment” means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a cause of action arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages. (Ord. 265 Art. I §1-1(part), 1984).

13.04.290  Legal owner. “Legal owner” means a person who holds the legal title to a vehicle. (Ord. 265 Art. I §1-1(part), 1984)


13.04.310  Local authorities. “Local authorities” includes every county, municipal and other local board or body having authority to adopt local police regulations under the constitution and laws of this
Mail. “Mail” means to deposit mail properly addressed and with postage prepaid with the United States Postal Service. (Ord. 265 Art. I §1-1(part), 1984).

Manufacturer. “Manufacturer” means any person who manufactures, assembles, or imports and sells new motor vehicles to new motor vehicle dealers for resale in the state; but such term shall not include a person who assembles or specifically builds interior equipment on a completed vehicle supplied by another manufacturer, distributor or supplier. (Ord. 265 Art. I §1-1(part), 1984).

Metal tires. “Metal tires” includes all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material except that this provision shall not apply to pneumatic tires. (Ord. 265 Art. I §1-1(part), 1984)

Motorcycle. “Motorcycle” means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry. (Ord. 265 Art. I §1-1(part), 1984).

Motor vehicle. “Motor vehicle” includes every vehicle, except motorized bicycles, which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. (Ord. 265 Art. I §1-1(part), 1984).

Motorized bicycle. “Motorized bicycle” means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, a power source providing up to a maximum of two brake horsepower having a maximum piston or rotor displacement of 3.05 cubic inches (49.98 milliliters) if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles (48.38 kilometers) per hour on a level road surface, is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged, and shall have a width no greater than thirty-two inches (81.28 centimeters). (Ord. 265 Art. I §1-1(part), 1984).

Nonresident. “Nonresident” means any person who is not a resident of this state. (Ord. 265 Art. I §1-1 (part), 1984).

Nonresident’s operating privilege. “Nonresident’s operating privilege” means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state. (Ord. 265 Art. I §1-1(part), 1984).

Official traffic-control device. “Official traffic-control devices” means all signs, signals, markings and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic. (Ord. 265 Art. I §1-1(part), 1984).

Operator. “Operator” means every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle. (Ord. 265 Art. I §1-1(part), 1984).

Owner. “Owner” means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. (Ord.
Parking. “Park,” when prohibited, means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading. (Ord. 265 Art. I §1-1(part), 1984).


Pole trailer. “Pole trailer” means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections. (Ord. 265 Art. I §1-1(part), 1984)

Police officer. “Police officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. (Ord. 265 Art. I §1-1(part), 1984)

Private road or driveway. “Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons. (Ord. 265 Art. I §1-1(part), 1984).

Proof of financial responsibility. “Proof of financial responsibility” means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of 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, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of ten thousand dollars because of injury to or destruction of property of others in any one accident. (Ord. 265 Art. I §1-1(part), 1984).

Railroad. “Railroad” means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails. (Ord. 265 Art. I §1-1(part), 1984).

Railroad sign or signal. “Railroad sign or signal” means any sign, signal, or device erected by authority of a public body, or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train. (Ord. 265 Art. I §1-1(part) 1984).

Reconstructed vehicle. “Reconstructed vehicle” means every vehicle of a type required to be registered under this chapter materially altered from its original construction by the removal, addition or substitution of essential parts, new or used. (Ord. 265 Art. I §1-1(part), 1984).

Residence district. “Residence district” means territory contiguous to a highway not comprising a business district, when the frontage on such highway for a distance of three hundred feet (91.44 meters) or more is occupied mainly by dwellings, or by dwellings and buildings in use for business. (Ord. 265 Art. I §1-1(part), 1984).

13.04.560 Road tractor. "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn. (Ord. 265 Art. I §1-1(part), 1984).

13.04.570 Roadway. "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term roadway" as used in this title refers to any such roadway separately but not to all such roadways collectively. (Ord. 265 Art. I §1-1(part), 1984).


13.04.590 Safety zone. "Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set aside as a safety zone. (Ord. 265 Art. I §1-1(part), 1984).

13.04.600 Salvage certificate of title. "Salvage certificate of title" means a document issued by the department for purposes of proof of ownership of a salvage or destroyed vehicle and not acceptable for motor vehicle registration purposes. (Ord. 265 Art. I §1-1(part), 1984).

13.04.610 School bus. "School bus" means any motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or to or from school-related activities, or privately owned and privately operated for compensation for the transportation of children to or from school and school-related activities. (Ord. 265 Art. I §1-1(part), 1984).

13.04.620 Semitrailer. "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a truck or truck tractor that some part of its own weight and that of its own load rests upon or is carried by a truck or truck tractor, except that it shall not include a "house trailer" or "mobile home" as defined in Section 13.04.690. (Ord. 265 Art. I §1-1(part), 1984).

13.04.630 Sidewalk. "Sidewalk" means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians. (Ord. 265 Art. I §1-1(part), 1984).

13.04.640 Solid tire. "Solid tire" includes every tire made of rubber or other resilient material other than a pneumatic tire. (Ord. 265 Art. I §1-1(part), 1984).

13.04.650 Specially constructed vehicle. "Specially constructed vehicle" means any vehicle under distinctive name, make, model or type by a generally recognized manufacturer of vehicle and not materially altered from its original construction. (Ord. 265 Art. I §1-1(part), 1984).

13.04.660 Stand or standing. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in receiving or discharging passengers. (Ord. 265 Art. I §1-1(part), 1984).

13.04.670 State. "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada. (Ord. 265 Art.

13.04.690 Stop or stopping. “Stop” or “stopping,” when prohibited, means any halting, even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal. (Ord. 265 Art. I §1-1(part), 1984).

13.04.700 Street. “Street” means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (Ord. 265 Art. I §1-1(part) 1984).

13.04.710 Through highway. “Through highway” means every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersection highways is required by law to yield right-of-way to vehicles on such through highway and in obedience to either a stop sign or yield sign, when such signs are erected by law. (Ord. 265 Art. I §1-1(part), 1984).


13.04.730 Traffic control signal. “Traffic-control signal” means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed. (Ord. 265 Art. I §1-1(part), 1984).

13.04.740 Trailer. “Trailer” includes every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it does not include a “house trailer” or “mobile home,” which mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers. (Ord. 265 Art. I §1-1(part), 1984).

13.04.750 Truck. “Truck” includes every motor vehicle designed, used or maintained primarily for transportation of property. (Ord. 265 Art. I §1-1(part), 1984).

13.04.760 Truck tractor. “Truck tractor” includes every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn. (Ord. 265 Art. I §1-1(part), 1984).

13.04.770 Urban district. “Urban district” means the territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than one hundred feet (30.48 meters) for a distance of a quarter of a mile (402.34 meters) or more. (Ord. 265 Art. I §1-1(part) 1984).

13.04.780 Used vehicle. “Used vehicle” means a motor vehicle which has been sold, bargained, exchanged, given away, or the title to which has been transferred to another, by the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer. (Ord. 265 Art. I §1-1(part), 1984).
13.04.790 Vehicle. “Vehicle” includes every device in, upon or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks. (Ord. 265 Art. I §1-1(part), 1984).
Chapter 13.08

TRAFFIC ADMINISTRATION

Sections:

13.08.010 Duty of traffic division. It is the duty of the traffic division with such aid as may be rendered by other members 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 those duties specially imposed upon the division by this title and the traffic ordinances of this city. (Ord. 265 Art. II §2-1, 1984).

13.08.020 Record of traffic violations. (a) The police department or the traffic division thereof 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. The record shall accumulate during at least a five-year period and from that time on the record shall be maintained completely for at least the most recent five-year period.

(b) 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.

(c) All such records and reports shall be public records. (Ord. 265 Art. II §2-2, 1984).

13.08.030 Accident investigations. It is the duty of the police department assisted by other police officers of the 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. (Ord. 265 Art. II §2-3, 1984).

13.08.040 Accident studies. Whenever the accidents at any particular location become numerous, the police department shall cooperate with the city traffic engineer in conducting studies of such accidents and determining remedial measures. (Ord. 265 Art. II §2-4, 1984).

13.08.050 Accident reports. The police department shall maintain a suitable system of filing traffic accident reports. Accident reports, or cards referring to them, shall be filed alphabetically by location. Such reports shall be available for the use and information of the city traffic engineer. (Ord. 265 Art. II §2-5, 1984).

13.08.060 Funeral processions. The police department shall designate a type of pennant or other identifying insignia to be displayed upon, or other method to be employed to identify, the vehicles in funeral processions. (Ord. 265 Art. II §2-6, 1984).
Chapter 13.12

ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

Sections:

13.12.010 Authority of police and fire department officials.
   (a) It is 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.
   (b) Officers of the police department or such officers as are assigned by the chief of
       police are 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, 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.
   (c) 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. (Ord. 265 Art.

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

13.12.030 Obedience to police officer or fireman. 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 regulate traffic. (Ord. 265 Art. III §3-3, 1984).

13.12.040 Certain nonmotorized traffic to obey traffic regulations.
   (a) Every person propelling any pushcart upon a roadway shall be granted all of the rights
       and shall be subject to all of the duties applicable to the driver of a vehicle by this
       ordinance and by the rules-of-the-road portion of the state vehicle code, except those
       provisions which by their very nature have no application.
   (b) 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
       title which by their very nature have no application. (Ord. 265 Art. III §3-4, 1984).

13.12.050 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 in this title. (Ord. 265 Art. Ill §3-5, 1984).

13.12.060 Public employees to obey traffic regulations. The provisions of this title shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, town, district or any other political subdivision of the state, subject to such specific exceptions as are set forth in this title or in the state vehicle code. (Ord. 265 Art. Ill §3-6, 1984)


(1) Class A authorized emergency vehicles:
   (A) The driver of a Class A authorized emergency vehicle may:
       (i) Park or stand, irrespective of the provisions of this title;
       (ii) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
       (iii) Exceed the speed limit so long as he does not endanger life or property;
       (iv) Disregard regulations governing directions of movement or turning in specified directions.
   (B) The exceptions in this section granted to a Class A authorized emergency vehicle apply only:
       (i) When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions;
       (ii) 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 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).
       (iii) In any instance when the head of a law enforcement agency deems advisable within the area of his 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).
   (C) No emergency vehicle shall display or permit to be displayed any red lamp except when operated on official business.

(2) Class B authorized emergency vehicles.
   (A) The driver of Class B authorized emergency vehicles may:
       (i) Park or stand, irrespective of the provisions of this title;
       (ii) Exceed the speed limit so long as he does not endanger life or property during the time of a local or national disaster;
       (iii) Disregard regulations governing direction of movement or turning in specified directions.
   (B) The exceptions granted in this section to a Class B authorized emergency vehicle shall apply only when the authorized emergency vehicle is displaying an amber light visible under normal atmospheric conditions for a distance of five hundred feet in any direction, and
(i) When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
(ii) When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of him; or
(iii) When traveling at a speed slower than the normal flow of traffic.

(3) Class C authorized emergency vehicles: All Class B specifications apply to Class C authorized emergency vehicles except that a rotating blue flashing light shall be displayed in place of an amber light as provided in NDCC §39-10-03.1. The Division of Disaster Emergency Services shall be responsible for promulgating the rules for the use of flashing blue lights in accordance with Chapter 28-32 of the North Dakota Century Code.

(4) Any law enforcement officer as provided in subdivision (B) of subsection (1) of Section 13.04.020 having stopped another vehicle along a highway, and while still involved in that incident, where flashing red or combination red and white lights were used in making the stop, may switch to the use of amber lights, visible under normal atmospheric conditions for at least five hundred feet (152.4 meters), for the purpose of maintaining traffic flow. (Ord. 265 Art. III §3-7, 1984)


(1) Upon the immediate approach of an authorized emergency vehicle giving an audible signal by bell, siren or exhaust whistle and displaying a visible flashing, revolving or rotating blue, white or red light, the driver of every other vehicle shall yield to the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb or the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(2) Whenever an emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving or rotating blue, white or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer.

(3) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highways. (Ord. 265 Art. III §3-8, 1984).

13.12.090  Written report of accident.

(1) Immediate notice and written report of accident. The driver of a vehicle involved in an accident resulting in injury or death of any person or property damage to an apparent extent of fifty dollars or more shall immediately give notice of such accident to the local police department if such accident occurs within the municipality.

(2) (A) An accident notice is not required from any person who is physically incapable of making the report during the period of such incapacity.
(B) Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice by the driver.
(C) Whenever the driver is physically incapable of making a written report 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 make such report not made by the driver. (Ord. 265 Art. III §3-9, 1984).
Chapter 13.16

TRAFFIC CONTROL DEVICES

Sections:
13.16.010 Authority to install traffic-control devices. The chief of police 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 the ordinances, and may place and maintain such additional traffic-control devices as necessary to regulate traffic under the traffic ordinances of this city, under state law, or to guide or warn traffic. (Ord. 265 Art. IV §4-1, 1984).

13.16.020 Specifications--Traffic-control devices. All traffic-control signs, signals and devices shall conform to the specifications approved by the state highway commissioner pursuant to NDCC §39-13-06. All signs and signals required under this title 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 chapter shall be official traffic-control devices. (Ord. 265 Art. IV §4-2, 1984).

13.16.030 Flashing signals. The provisions of NDCC §39-10-07 and all subsequent amendments are incorporated by reference in this title.

(1) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign, it requires obedience by vehicular traffic as follows:

(A) Flashing red (stop signal): When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles 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, and the right to proceed is subject to the rules applicable after making a stop at a stop sign.

(B) Flashing yellow (caution signal) When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection...
or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct or drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in Section 13.32.050. (Ord. 265 Art. IV §4-3, 1984).

13.16.040 Designation of walks, lanes, etc. The chief of police or any person shall when authorized by the governing body:

(1) Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where there is particular danger to pedestrians crossing the roadway, and at such other places as directed by the governing body.

(2) Establish safety zones of such kind and character and at such places necessary for the protection or 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 is 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. (Ord. 265 Art. IV §4-4, 1934).


(1) The driver of any vehicle shall obey the instruction of any official traffic-control device applicable thereto placed in accordance with the provisions of this title, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this title.

(2) No provision of this title for which traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a state statute does not state the devices which are required, such statute shall be effective even though no devices are erected or in place.

(3) Whenever official traffic-control devices are placed in positions approximately conforming to the requirements of this title, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(4) Any official traffic-control device placed pursuant to the provisions of this title and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this title, unless the contrary is established by competent evidence. (Ord. 265 Art. IV §4-5, 1984).

13.16.060 Unauthorized signs. No person shall place, maintain or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be or is in 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 any official traffic-control device or any railroad sign or signal. (Ord. 263 Art. IV §4-6, 1984).

13.16.070 Interference or vandalism. The provisions of NDCC §39-10-07.3 and all subsequent amendments are incorporated by reference in this title. 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. (Ord.
13.16.080 Exceptions to parking regulations. The prohibition against the parking of trucks and other vehicles with an overall length of more than two hundred inches shall not be construed to apply to merchandise trucks engaged in the receipt of delivery of freight, goods, wares or merchandise to or from the business establishments or other premises within parking zone number one, nor shall the provision with reference to parking in zone number two be construed to prohibit diagonal parking or vehicles of any kind parking in zone number two while loading or unloading any goods, wares or merchandise to be loaded or received from any residence or place of business, or other property, within parking zone number two. (Ord. 51 (part), 1952: 1942 Rev. Ords. §4-503)

13.16.090 Time limit. No vehicle shall be parked at any one time on any street of the city, within the parking zones thereof, as defined by Section 13.04.430, for a longer period than forty-eight consecutive hours; provided, that this limitation shall not apply to vehicles in daily use where the same are moved from time to time and at least every forty-eight hours. (1942 Rev. Ords §4-504).

13.16.100 Parking on left side of street. No vehicle shall stop with its left side to the curb. (1942 Rev. Ords. §4-505)

13.16.110 Crossing not to be obstructed. No vehicle, unless in an emergency or to allow another vehicle or pedestrian to cross its path, shall stop in the street except near to the right hand curb thereof, so as not to obstruct a crossing. (1942 Rev. Ords. §4-506).

13.16.120 Backing, vehicle to curb. A vehicle shall remain backed up to a curb only long enough to be loaded or unloaded, and if horses are attached to such vehicle when backed to the curb they shall be turned at right angles to the vehicle as near as possible. (1942 Rev. Ords. §4-507)

13.16.130 Parking prohibited in specified places. It shall be unlawful for the operator of a vehicle to stop, stand, or park such vehicles in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal: (1) Within an intersection; (2) on a crosswalk; (3) within one block of where fire apparatus has stopped in answer to a fire alarm; (4) within the painted portion of a curb; (5) within fifteen (15) feet of the driveway to any fire station; (6) within seven and one-half (7 1/2) feet of a fire hydrant; (7) in front of a private driveway; (8) on a sidewalk; (9) alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic; (10) in front of the entrance of any church during the time such church is open for service or meeting, or in front of the entrance to any theater, opera house, moving picture show, or auditorium at any time between “no parking” signs erected in front of such entrances, except a vehicle may stop in the line of traffic between such “no parking” signs when taking on or discharging passengers, and then only for such length of time as is necessary for such purposes; (11) such other places as may be designated by the police department; (2.2) within an area described as follows: On the South Side of Second Street Southwest from Second Avenue Southwest to Third Avenue Southwest; on the west side of Second Avenue Southwest from Second Street Southwest to Third Street Southwest; on the North Side of Third Street Southwest from Second Avenue Southwest to Third Avenue Southwest; on the East Side of Third Avenue Southwest from Second Street Southwest to Third Street Southwest; between the hours of eight a.m. to six p.m. during the normal school months, commencing with the month of September each year and ending the first day of June each year. (Ord. 121 (part), 1964: Ord. 109 (part), 1962: Ord. 45 (part), 1951: 1942 Rev. Ords. §4-508).

13.16.140 Motor vehicles left unattended. No person having control or charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first setting the brakes thereon and stopping the motor of the vehicle, and, when standing upon a perceptible grade, without turning the wheels of such vehicle to the curb or the side of the street or highway. (1942 Rev. Ords. §4-509).

13.16.150 Certain vehicles restricted. It shall be unlawful for any person owning or having in his possession, or under his control, any vehicle or apparatus designed to be propelled by mechanical power which is incapable of operating and moving about by means of its own power, to park, or permit
the same to be upon any public streets, walk, or berm within the city for a longer period than five hours. (1942 Rev. Ords. §4-510).

13.16.160 Duty of police to remove certain vehicles. If any such vehicle, as described in Section 13.16.150 shall be parked or allowed to remain on any of the places herein prohibited for a longer period than five hours such vehicle is hereby declared to be a nuisance and it shall be the duty of the police officers of the city to notify the owner, or person having the possession and control of such vehicle, if such owner or person can conveniently be found, to remove the same forthwith and unless the same be so removed forthwith it is hereby made the duty of the police officers of this city to cause such vehicle or vehicles to be removed from the public streets, walkways, and berms of this city and deposited on the city dump grounds. (1942 Rev. Ords §4-511).

13.16.170 Hours and places where parking is limited.
(a) For the purpose of facilitating the maintenance of hard-surface or paved streets and avenues within the city of Rugby, the following system of parking on such streets and avenues shall be used:
(1) It shall be unlawful for any person, firm, or corporation to park any automotive vehicle upon any hard—surfaced or paved street or avenue within the "Business District" of the city as hereinafter defined, between the hours of one a.m. and seven a.m. on any Monday or Friday.

(b) "Business district" defined: For the purposes of this chapter, the "business district" of the city is hereby defined as consisting of the following streets and avenues:
(1) Main Avenue between First Street South and Fourth Street South
(2) Second Avenue East between the Great Northern Railway Company right-of-way and Third Street Southeast
(3) Second Avenue West between Second Street Southwest and Third Street Southwest
(4) Second Street South between Third Avenue Southwest and the Pierce County Courthouse drive
(5) Third Street South between Third Avenue Southwest and Second Avenue Southeast. (Ord. 127 (part), 1965: Ord. 104 §1, 1961: Ord. 101 §1, 1961)

13.16.180 Penalty for Violation. Any person, firm, corporation or association violating any of the terms, articles or provisions of this chapter, shall upon conviction thereof, be punished by a fine of $20.00 in each business district and $10.00 in each residential district. The court shall have the power to suspend such sentence and to revoke the suspension thereof. 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. (Ord 359; 2006; Ord. 381, 2012)
Chapter 13.20

SPEED REGULATIONS AND CARE REQUIRED

Sections:

13.20.010 Prudent driving rules.
(a) The provisions of NDCC §39-09-01 and all subsequent amendments are incorporated by reference in this title.
(b) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard for 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 hillcrest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. Any person who shall drive a vehicle upon a highway or private or public property open to the public for the operation of motor vehicles without heed to the requirements or restrictions of this section shall have committed careless driving, and shall be assessed a fee of thirty dollars. (Ord. 265 Art. V §5-1, 1984).

13.20.020 Speed limits--Designated. The speed limit within the city of Rugby on all streets and avenues shall be twenty-five miles per hour with the following exceptions:
1. School zones, which will be designated by proper signage in the school areas.
2. Beginning at the east edge of Lot 12 of Burkhartsmeier’s Addition to the east city limits, which speed limit shall be forty miles per hour. (Ord. 341, 2001: Ord. 265 Art. V §5-2, 1984).

13.20.030 Speed limits--Alterations by city. The provisions of NDCC §39-09-03 and all subsequent amendments are incorporated by reference in this title.
(1) Whenever the city, on the basis of an engineering and traffic investigation, determines that the maximum speed permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the city may determine and declare a reasonable and safe maximum limit thereon which:
   (A) Decreases the limit at intersections;
   (B) Increases the limit within an urban district but not to more than fifty-five miles per hour; or
   (C) Decreases the limit outside an urban district, but not to less than thirty-five miles per hour.
(2) The city shall determine by an engineering and traffic investigation the proper maximum speed for arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the minimum speed permitted under...
this chapter for an urban district.

(3) Any altered limit established as authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

(4) Any alteration of maximum limits on state highways or extensions thereof in the municipality shall not be effective until such alteration has been approved by the state highway commissioner.

(5) Not more than six such alterations as authorized in this section shall be made per mile along a street or highway except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than ten miles (16.09 kilometers) per hour. (Ord. 265 Art. V §5-3, 1984).

13.20.040 Speed limits--Emergency vehicles. The provisions of NDCC §39-09-06 and all subsequent amendments are incorporated by reference in this title. The speed limitations provided for in this section shall not apply to Class A authorized emergency vehicles. The exceptions provided for in this section shall not protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others. (Ord. 265 Art. V §5-4, 1984).

13.20.050 Speed limits--Minimum. The provisions of NDCC §39-09-09 and all subsequent amendments are incorporated by reference in this title.

(1) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(2) Whenever the state highway commissioner and the superintendent of the highway patrol, acting jointly, or the city, determine on the basis of engineering and traffic investigation that slow speed on any highway or part of the highway impede the normal and reasonable movement of traffic, the commissioner and superintendent or the city may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs. (Ord. 265 Art. V §5-5, 1984).

13.20.060 Speed limits--Regulation by traffic signal. The chief of police 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. (Ord. 265 Art. V §5-6, 1984).

13.20.070 Exhibition driving and drag racing. The provisions of NDCC §39-08-03.1 and all subsequent amendments are incorporated by reference in this title.

(1) No person shall engage in exhibition driving of any vehicle on a highway, street, alley, sidewalk, or any public or private parking lot or area, nor shall 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 shall be assessed a fee of forty 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. (Ord. 265 Art. V §5-7, 1984).

13.20.080   Radar evidence in speed violations.
   (a) The provisions of NDCC §39-03-15 and all subsequent amendments are incorporated by reference in this title.
   (b) The speed of any motor vehicle may be checked by the use of radio microwaves or other electrical device. The results of such checks shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. The driver of any such motor vehicle may be arrested without a warrant under this section, provided the arresting officer is in uniform or displays his badge of authority; provided that such officer has observed the record of the speed of such motor vehicle by the radio microwaves or other electrical device, or has received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electrical device. (Ord. 265 Art. V §5-8, 1984).

13.20.090   Care required in operating vehicle.
   (a) The provisions of NDCC §39-09-01.1 and all subsequent amendments are incorporated by reference in this title.
   (b) Any person driving a vehicle upon a highway shall drive the vehicle in a careful and prudent manner, having clue 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. (Ord. 265 Art. V §5-9, 1984).

13.20.100   Fines for speeding violations. The following fines are imposed for speeding violations:

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 criminal disposition pursuant to either Section 9-06.106 shall be as follows:

Amount of statutory fees. The fees required for a noncriminal disposition pursuant to either 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 any amount not to exceed twenty dollars.

2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
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, 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.

3. 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

<table>
<thead>
<tr>
<th>Fee</th>
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<tbody>
<tr>
<td>1 - 5 $ 5</td>
</tr>
<tr>
<td>6 - 10 $ 5 plus $1/each mph over 5 mph over limit</td>
</tr>
<tr>
<td>11 - 15 $ 10 plus $1/each mph over 10 mph over limit</td>
</tr>
<tr>
<td>16 - 20 $ 15 plus $2/each mph over 15 mph over limit</td>
</tr>
<tr>
<td>21 - 25 $ 25 plus $3/each mph over 20 mph over limit</td>
</tr>
<tr>
<td>26 - 35 $ 40 plus $3/each mph over 25 mph over limit</td>
</tr>
<tr>
<td>36 - 45 $ 70 plus $3/each mph over 35 mph over limit</td>
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<tr>
<td>46 + $100 plus $5/each mph over 45 mph over limit</td>
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</tbody>
</table>

4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee of thirty dollars.

5. For a violation of section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.

6. For a violation of any traffic parking regulations, except a violation of subsection 10 of section 39-01-15, on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars.

7. 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

<table>
<thead>
<tr>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 10 $2/each mph over limit</td>
</tr>
<tr>
<td>11 + $20 plus $5/each mph over 10 mph over limit</td>
</tr>
</tbody>
</table>

8. For a violation of section 39-21-41.4, a fee not to exceed twenty dollars.

9. For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.

10. For a violation of subsection 3 of section 39-21-46, a fee established as follows:

a. Driving more than ten hours since the last eight hours off duty, driving after fifteen hours on duty since the last eight 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.

11. 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.

12. For a violation of a school zone speed limit under subdivision b of subsection 1 of section 39-09-02, or, notwithstanding subsection 2 of section 40-05-06 or section 40-05.1-06, of an ordinance in a city or home rule city for a violation of a speed limit dependent upon being on or near a school, fees for a noncriminal disposition are 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.

13. 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". (Ord. 369, 2008)
Chapter 13.24

TURNING MOVEMENTS

Sections:

13.24.010 Course of travel. The chief of police or other authorized person may place official traffic-control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law. (Ord. 265 Art. VI §6-1, 1984).

13.24.020 Restrictions on turns. The chief of police or other authorized person may determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted. (Ord. 265 Art. VI §6-2, 1984).

13.24.030 Prohibited right, left or U-turns. Whenever authorized signs are erected indicating that no right, left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign. (Ord. 265 Art. VI §6-3, 1984).

13.24.040 Required position and method of turning at intersections.
(a) The provisions of NDCC §39-10-35 and all subsequent amendments are incorporated by reference in this title.
(b) The driver of a vehicle intending to turn at an intersection shall do so as follows:
(1) Right turns: Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
(2) Left turns on two-way roadways: At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
(3) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.
(4) The city may cause markers, buttons or signs to be placed within or adjacent
to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs. (Ord. 265 Art. VI §6-4, 1984).

13.24.050 Vehicle turning left at intersection.
   (a) The provisions of NDCC §39-10-23 and all subsequent amendments are incorporated by reference in this title.
   (b) 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. (Ord. 265 Art. VI §6-5, 1984).


13.24.080 Signals—By hand or lamp. The provisions of NDCC §39-10-39 and all subsequent amendments are incorporated by reference in this title.
13.24.090 Signals--Methods of giving hand-and-arm signals. (a) The provisions of NDCC §39-10-40 and all subsequent amendments are incorporated by reference in this title.

(b) All signals required given by hand and arm in this title shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

1. Left turn: hand and arm extended horizontally;
2. Right turn: hand and arm extended upward;
3. Stop or decrease speed: hand and arm extended downward. (Ord. 265 Art. VI §6-9, 1984).
Chapter 13.28

ONE-WAY STREETS AND ALLEYS

Sections:

13.28.010 Authority to sign.

13.28.010 Authority to sign. The chief of police or authorized person may determine and designate one-way streets or alleys and shall place and maintain official traffic-control devices giving notice thereof. No such designation shall be effective unless such devices are in place. (Ord. 265 Art. VII §7-1, 1984).
Chapter 13.32

STOP AND YIELD INTERSECTIONS

Sections:

13.32.010 Stop signs and yield signs. The provisions of NDCC §39-10-44 and all subsequent amendments are incorporated by reference in this title.

1. Preferential right-of-way at an intersection may be indicated by stop signs or yield signs.

2. Every stop sign and every yield sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway.

3. Every stop sign shall bear the word “STOP” in letters not less than eight inches in height. Every yield sign shall bear the word “YIELD” in letters not less than six inches in height.

4. 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.

5. 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, then at a point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting highway. (Ord. 265 Art. VIII 58-1, 1984).

13.32.020 Yielding the right-of-way. The provisions of NDCC §39-10-24 and all subsequent amendments are incorporated by reference in this title.

1. Preferential right-of-way may be indicated by stop signs or yield signs.

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 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 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, then at a 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 shall be deemed prima facie evidence of his failure to yield the right-of-way. (Ord. 65 Art. VIII §8-, 1984).

13.32.030 Emerging from alley, driveway, private road or building. (a) The provisions of NDCC §39-10-45 and all subsequent amendments are incorporated by reference in this title.

(b) 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 of approaching traffic thereon. (Ord. 265 Art. VIII §8-3, 1984).

13.32.040 Railroad grade crossings--Stopping generally. The provisions of NDCC §39-10-41 and all subsequent amendments are incorporated by reference in this title.

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

(A) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(B) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

(C) A railroad train approaching within approximately one thousand three hundred twenty feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or

(D) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. No person shall drive any vehicle past any human flagman at a railroad crossing until the flagman signals that the way is clear to proceed. (Ord. 265 Art. VIII §8-4, 1984).

13.32.050 Railroad grade crossings--Dangerous. The provisions of NDCC §39-10-42 and all subsequent amendments are incorporated by reference in this title.

The state highway department and the city, with respect to highways under their respective jurisdiction, are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care. (Ord. 265 Art. VIII §8-5, 1984).

13.32.060 Railroad grade crossings--Buses--Hazardous cargoes. The provisions of NDCC §39-10-43 and all subsequent amendments are incorporated by reference in this title.

(1) The driver of a bus carrying passengers, or of any school bus carrying any school child, or of any vehicle carrying any chlorine, empty or loaded cargo tank vehicles used to transport dangerous articles or any liquid having a flashpoint below two hundred degrees Fahrenheit, cargo tank vehicles transporting a commodity having a temperature above its flashpoint at the time of loading, certain cargo tank vehicles transporting commodities under special permits issued by the Hazardous Materials Regulations Board, and every motor vehicle which must have the following placards: “explosives,” “poison,” “flammable oxidizers,” “compressed gas,” “corrosives,” “flammable gas,
“radioactive,” or “dangerous,” before crossing at grade any track or tracks of a railroad shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train and shall not proceed until he can do so safely. After stopping as required in this chapter and upon proceeding when it is safe to do so the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossing and the driver shall not manually shift gears while crossing the track or tracks.

(2) No stop need be made at any such crossing at which traffic is controlled by a police officer. For the purposes of this section, a United States Marshal shall be considered a police officer. (Ord. 265 Art. VIII §8-6, 1984).
Chapter 13.36

MISCELLANEOUS RULES OF THE ROAD

Sections:

13.36.010 Obstruction of traffic. 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 he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (Ord. 265 Art. IX §9-1, 1984).

13.36.020 Driving through funeral or other procession. No driver of a vehicle (or motorman of a streetcar) shall drive between the vehicles composing a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this title. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers. (Ord. 265 Art. IX §9-2, 1984).
13.36.030 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. (Ord. 265 Art. IX §9-3, 1984).

13.36.040 Identification of funeral processions. 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. (Ord. 265 Art. IX §9—4, 1984)

13.36.050 Parade permits. No funeral, procession or parade containing two hundred or more persons or fifty 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 in this title which may apply. (Ord. 265 Art. IX §9-5, 1984).

13.36.060 Driving on right side of the road. The provisions of NDCC §39-10-08 and all subsequent amendments are incorporated by reference in this chapter.

   (1) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:
      (A) When overtaking and pass tog another vehicle proceeding in the same direction under the rules governing such movement;
      (B) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
      (C) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
      (D) Upon a roadway restricted to one-way traffic.

   (2) Upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn in an intersection or into a private road or driveway.

   (3) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the 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) of this section. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway. (Ord. 265 Art. IX §9-6, 1964).

13.36.070 Passing vehicles proceeding in opposite directions. (a) The provisions of NDCC §39-10-09 and all subsequent amendments are incorporated by reference in this title.

(b) Drivers of vehicles proceeding in opposite directions shall pass each other to the right. 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. (Ord. 265 Art. IX §9-7, 1984)
13.36.080  Overtaking a vehicle on the left.  (a) The provisions of NDCC §39-10-11 and all subsequent amendments are incorporated by reference in this title.

(b) The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules stated in this title:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (Ord. 265 Art. IX §9-8, 1984)

13.36.090  Overtaking on the right. The provisions of NDCC §39-10-12 and all subsequent amendments are incorporated by reference in this title.

(1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(A) When the vehicle overtaken is making or about to make a left turn; or

(B) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway. (Ord. 265 Art. IX §9-9, 1984)

13.36.100  Overtaking on the left.  (a) The provisions of NDCC §39-10-13 and all subsequent amendments are incorporated by reference in this title.

(b) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction of any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable, and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching vehicle. (Ord. 265 Art. IX §9-10, 1984)

13.36.110  Driving left of center. The provisions of NDCC §39-10-14 and all subsequent amendments are incorporated by reference in this title.

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

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

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

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

(2) The limitations set out in subsection (1) of this section shall not apply upon a one—
way roadway, nor under the conditions described in Section 13.36.060 nor to the
driver of a vehicle turning left into or from an alley, private road or driveway. (Ord. 265
Art. IX §9-11, 1984).

13.36.120  No-passing zones. The provisions of NDCC §39-10-15 and all subsequent amendments
are incorporated by reference in this title.
(1) The state highway commissioner and local authorities are 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. 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) of this section, no driver shall at any time drive on the left side of the
roadway with such no-passing zone or on the left side of any pavement striping
designed to mark such no-passing zone throughout its length.
(3) This section does not apply under the conditions described in Section 13.36.060, nor
to the driver of a vehicle turning left into or from an alley, private road or driveway
(Ord. 265 Art. IX §9-12, 1984).

13.36.130  Driving on roadways laned for traffic.
(a) The provisions of NDCC §38-10-17 and all subsequent amendments are incorporated
by reference in this title.
(b) Whenever any roadway has been divided into two or more clearly marked lanes for
traffic, the following rules in addition to all others consistent with this section apply:
(1) A vehicle shall be driven as nearly as practicable entirely within a single lane
and shall not be moved from such lane until the driver has first ascertained
that such movement can be made with safety.
(2) Upon a roadway which is divided into three lanes and provides for two-way
traffic, a vehicle shall not be driven in the center lane except when overtaking
and passing another vehicle traveling in the same direction when such center
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. (Ord. 265 Art. IX §9-13, 1984).

13.36.140  Following too closely. The provisions of NDCC §39-10-18 and all subsequent
amendments are incorporated by reference in this title.
(1) The driver of a motor vehicle shall not follow another vehicle more closely than is
reasonable and prudent, having due regard for the speed of such vehicles, the traffic and the condition
of the highway.
(2) The driver of any truck or motor vehicle drawing another vehicle when traveling upon
a roadway outside of a business or residence district and which is following another truck or motor
vehicle drawing another vehicle shall, whenever conditions permit leave sufficient space so that an
overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

(3) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions. (Ord. 265 Art. IX §9-14, 1984).

13.36.150 Divided highways. (a) The provisions of NDCC §39-10-19 and all subsequent amendments are incorporated by reference in this title.

(b) 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 shall be driven only upon the right-hand roadway, unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle shall be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space at a crossover or intersection as established by public authority, unless such crossing is specifically prohibited and such prohibition is indicated by appropriate traffic-control devices. (Ord. 265 Art. IX §9-15, 1984).

13.36.160 Restricted access. (a) The provisions of NDCC §39-10-20 and all subsequent amendments are incorporated by reference in this title.

(b) No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority. (Ord. 265 Art. IX §9-16, 1984).

13.36.170 Use of controlled-access roadway. (a) The provisions of NDCC §39-10-21 and all subsequent amendments are incorporated by reference in this title.

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

(c) The State Highway Commissioner or the city, as the case may be, shall erect and maintain official signs on the controlled—access roadway on which such regulations are applicable and when so erected no person shall disobey the restrictions stated on such signs. (Ord. 265 Art. IX §9-17, 1984).

13.36.180 Vehicle entering roadway. (a) The provisions of NDCC §39-10-25 and all subsequent amendments are incorporated by reference in this title.

(b) 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. (Ord. 265 Art. IX §9-18, 1984).

13.36.190 Right-of-way at intersections. The provisions of NDCC §39-10-22 and all subsequent amendments are incorporated by reference in this title.

(1) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right; and

(2) The right-of-way rule declared in this section is modified as through highways and otherwise as stated in this title. (Ord. 265 Art. IX §9-19, 1984).

13.36.200 overtaking and passing school bus. The provisions of NDCC §39-10-46 and all subsequent amendments are incorporated by reference in this title.
(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 such school bus when there is in operation the flashing red lights specified in NDCC §39-21-18, and the driver shall not proceed until such school bus resumes motion, he is signaled by the school bus driver to proceed or the flashing red lights are no longer actuated.

(2) Every school bus shall bear upon the front and rear thereof plainly visible signs containing the words “SCHOOL BUS” in letters not less than eight inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or for a school-sanctioned activity, all markings, thereon indicating “SCHOOL BUS” shall be covered or concealed.

(3) Every school bus shall be equipped with red visual signals meeting the requirements of NDCC §39-21-18, which may be actuated by the driver of the school bus whenever, but only whenever, such vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate the special visual signals:
   (A) On city streets on which the receiving or discharging of school children is prohibited by ordinance;
   (B) At intersections or other places where traffic is controlled by traffic-control signals or police officers; or
   (C) In designated school bus loading areas where the bus is entirely off the roadway.

(4) 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 on 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. (Ord. 265 Art. IX §9-20, 1984).

13.36.210 Unattended motor vehicle. (a) The provisions of NDCC §39-10-51 and all subsequent amendments are incorporated by reference in this title.

   (b) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, effectively setting the brake thereon, and, when standing upon any grade, turning the front wheels to the curb or side of the highway. (Ord. 265 Art. IX §9-21, 1984).

13.36.220 Limitations--Vehicles in reverse. The provisions of NDCC §39-10-52 and all subsequent amendments are incorporated by reference in this title.

   (1) The driver of a vehicle shall not back up the vehicle unless such movement can be made with safety and without interfering with other traffic.

   (2) The driver of a vehicle shall not back up the vehicle upon any shoulder or roadway of any controlled-access highway. (Ord. 265 Art. IX §9-22, 1984).

13.36.230 Obstruction of driver's view. The provisions of NDCC §39-10-54 and all subsequent amendments are incorporated by reference in this title.

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

   (2) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle. (Ord. 265 Art. IX §9-23, 1984).

13.36.240 Opening vehicle doors amidst moving traffic.

   (a) The provisions of NDCC §39-10-54.1 and all subsequent amendments are incorporated by reference in this title.
(b) No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (Ord. 265 Art. IX §9-24, 1984).

13.36.250 Coasting prohibited. The provisions of NDCC §39-10-56 and all subsequent amendments are incorporated by reference in this title.

(1) The driver of any motor vehicle when traveling upon a downgrade shall not coast with the gears or transmission of such vehicle in neutral.

(2) The driver of a truck or bus when traveling upon a downgrade shall not coast with the clutch disengaged. (Ord. 265 Art. IX §9-25, 1984).

13.36.260 Following fire apparatus prohibited. (a) The provisions of NDCC §39-10-57 and all subsequent amendments are incorporated by reference in this title.

(b) The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet or stop such vehicle within five hundred feet of any fire apparatus stopped in answer to a fire alarm. (Ord. 265 Art. IX §9-26, 1984).

13.36.270 Driving over fire hose prohibited. (a) The provisions of NDCC §39-10-58 and all subsequent amendments are incorporated by reference in this title.

(b) No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command. (Ord. 265 Art. IX §9-27, 1984).

13.36.280 Rubbish, glass, injurious substances prohibited on highways. The provisions of NDCC §39-10-59 and all subsequent amendments are incorporated by reference in this title.

(1) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle, or throw or deposit rubbish of any kind upon the highway.

(2) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. (Ord. 265 Art. IX §9-28, 1984).

13.36.290 Driving in safety zone prohibited. (a) The provisions of NDCC §39-10-64 and all subsequent amendments are incorporated by reference in this title.

(b) No vehicle shall at any time be driven through or within a safety zone. (Ord. 265 Art. IX §9-29, 1984).

13.36.300 Moving heavy equipment at railroad grade crossings. The provisions of NDCC §39-10-67 and all subsequent amendments are incorporated by reference in this title.

(1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(2) Before making any such crossing, the person operating, or moving any such vehicle
or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail or such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(3) No such crossing shall be made when warning is given by automatic signal or crossing gates or flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction. (Ord. 265 Art. IX §9-30, 1984).

13.36.310 Alteration of odometer, tachometer. (a) The provisions of NDCC §39-21-51 and all subsequent amendments are incorporated by reference in this title.

(b) Any person altering a motor vehicle odometer or other mileage recorder, hour meter on tachometer or other hour reminder for the purpose of deceiving another is guilty of an infraction. (Ord. 265 Art. IX §9-31, 1984).

13.36.320 Open bottle law.

(a) The provisions of NDCC §39-08-18 and all subsequent amendments are incorporated by reference in this title.

(b) No person shall drink or consume alcoholic beverages, as defined in the North Dakota Century Code, in or on any motor vehicle when such vehicle is upon a public highway or in an area used principally for public parking. No person shall have in his possession on his person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It is unlawful for the owner of any private motor vehicle or the driver, if the owner is 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 shall be deemed within the area occupied by the driver and passengers. The provisions of this section shall not prohibit the consumption or possession of alcohol beverages in a house car, as defined by NDCC subsection 21.1 or Section 13.04.240 of this code, 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.

(c) Any person violating the provisions of this section shall be assessed a fee of twenty dollars; however, the licensing authority shall not record the violation against the driving record of such person unless he was the driver of the automobile at the time that the violation occurred. (Ord. 265 Art. IX §9-32, 1984).

13.36.330 Permitting unauthorized minor to drive. No person shall cause or knowingly permit his child or ward under the age of eighteen years to drive a motor vehicle upon any highway when such minor is not authorized under the laws of this state. (Ord. 265 Art. IX §9-33, 1984).

13.36.340 Permitting unauthorized person to drive. No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized under the laws of this state. (Ord. 265 Art. IX §9-34, 1984).
Chapter 13.40

PEDESTRIANS

Sections:

13.40.010 Obedience to traffic-control devices.
13.40.020 Right-of-way and protocol.
13.40.030 Crossing at other than crosswalks.
13.40.040 Drivers to exercise due care.
13.40.050 Pedestrians to use right half of crosswalks.
13.40.060 Pedestrians on roadways.
13.40.070 Pedestrians right-of-way on sidewalks.
13.40.080 Pedestrians yield to authorized emergency vehicles.
13.40.090 Blind pedestrian right-of-way.
13.40.100 Pedestrians under influence of alcohol or drugs.
13.40.110 Bridge and railroad signals.
13.40.120 Pedestrians soliciting rides or business.
13.40.130 Open Container.

13.40.010 Obedience to traffic-control devices.
(a) The provisions of NDCC §39-10-27 and all subsequent amendments are incorporated by reference in this title.
(b) A pedestrian shall obey the instructions of any official traffic-control device specially applicable to him, unless otherwise directed by a police officer. (Ord. 265 Art. X §10-1, 1984).

(1) When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
(3) Subsection (1) of this section shall not apply under the conditions stated in subsection (2) of Section 13.44.030; and
(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the highway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (Ord. 265 Art. X §10-2, 1984)

13.40.030 Crossing at other than crosswalks. The provisions of NDCC §39-10-29 and all subsequent amendments are incorporated by reference in this chapter.
(1) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
(2) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
(3) Between adjacent intersections at which traffic-control devices are in operation, pedestrians shall not cross at any place except in a marked crosswalk.
(4) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements. (Ord. 265 Art. X §10-3, 1984).

13.40.040 Drivers to exercise due care. (a) The provisions of NDCC §39-10-30 and all subsequent amendments are incorporated by reference in this title.
   (b) Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (Ord. 265 Art. X §10-4, 1984).

13.40.050 Pedestrians to use right half of crosswalks. (a) The provisions of NDCC §39-10-32 and all subsequent amendments are incorporated by reference in this title.
   (b) Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (Ord. 265 Art. X §10-5, 1984).

13.40.060 Pedestrians on roadways. The provisions of NDCC §39-10-33 and all subsequent amendments are incorporated by reference in this title.
   (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. (Ord. 265 Art. X §10-6, 1984).

13.40.070 Pedestrians' right-of-way on sidewalks. 
   (a) The provisions of NDCC §39-10-33.1 and all subsequent amendments are incorporated by reference in this title.
   (b) The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk. (Ord. 265 Art. X §10-7, 1984).

13.40.080 Pedestrians yield to authorized emergency vehicles. The provisions of NDCC §39-10-33.2 and all subsequent amendments are incorporated by reference in this title.
   (1) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal by bell, siren, or exhaust whistle and displaying a visible flashing, revolving, or rotating blue, white, or red light, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.
   (2) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor from the duty to exercise due care to avoid colliding with any pedestrian. (Ord. 265 Art. X §10-8, 1984).

13.40.090 Blind pedestrian right-of-way. (a) The provisions of NDCC §39-10-33.3 and all subsequent amendments are incorporated by reference in this title.
   (b) The driver of a vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible, white cane or accompanied by a guide dog. (Ord. 265 Art. X §10-9, 1984).

13.40.100 Pedestrians under influence of alcohol or drugs. (a) The provisions of NDCC §39-10-33.4
and all subsequent amendments are incorporated by reference in this title.

(b) A pedestrian who is under the influence of alcohol or any drug to a degree which renders himself a hazard shall not walk or be upon a roadway. (Ord. 265 Art. X §10-10, 1984).

13.40.110 Bridge and railroad signals. (a) The provisions of NDCC §39-10-33.5 and all subsequent amendments are incorporated by reference in this title.

(b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed. (Ord. 265 Art. X §10-11, 1984).

13.40.120 Pedestrians soliciting rides or business. The provisions of NDCC §39-10-34 and all subsequent amendments are incorporated by reference in this title.

(1) No person shall stand in a roadway for the purpose of soliciting a ride.

(2) No person shall stand in a roadway for the purpose of solicitating employment, business or contributions from the occupant of any vehicle.

(3) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway. (Ord. 265 Art. X §10-12, 1984).

13.40.130 Open Container. The sale or consumption of alcoholic beverages by pedestrians upon or across any street, alley or public way is prohibited, except pursuant to a special event permit. (Ord. 380, 2012)
Chapter 13.44

MOTORCYCLES

Sections:

13.44.010 Traffic laws applicable to motorcyclists.
(a) The provisions of NDCC §39-10.2-01 and all subsequent amendments are incorporated by reference in this title.
(b) Every person operating a motorcycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this title, except as to special regulations in this chapter and except as to those provisions of this title which by their nature can have no application. (Ord. 265 Art. XI §11-1, 1984)

13.44.020 Riding on motorcycles. The provisions of NDCC §39-10.2-02 and all subsequent amendments are incorporated by reference in this title.
(1) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.
(2) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.
(3) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars.
(4) No operator shall carry any person, nor shall any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator. (Ord. 265 Art. XI §11-2, 1984)

13.44.030 Motorcycles on roadways laned for traffic. The provisions of NDCC §39-10.2-03 and all subsequent amendments are incorporated by reference in this title.
(1) All motorcycles are entitled to a full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to the operation of motorcycles two abreast in a single lane as authorized in subsection (4) of this section.
(2) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.
(3) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.
(4) Motorcycles shall not be operated more than two abreast in a single lane.
(5) Subsections (2) and (3) of this section shall not apply to police officers in the performance of their official duties. (Ord. 265 Art. XI §11-3, 1984)
13.44.040  Clinging to other vehicles.  (a) The provisions of NDCC §39-10.2-04 and all subsequent amendments are incorporated by reference in this title.

(b) No person riding upon a motorcycle shall attach himself or the motorcycle to any other vehicle on a roadway. (Ord. 265 Art. XI §11-4, 1984)

13.44.050  Footrests.  (a) The provisions of NDCC §39-10.2-05 and all subsequent amendments are incorporated by reference in this title.

(b) Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with foot rests for such passengers. (Ord. 265 Art. XI §11-5, 1984).

13.44.060  Equipment required for motorcyclists.  The provisions of NDCC §39-10.2-06 and all subsequent amendments are incorporated by reference in this title.

(1) No person under the age of eighteen years shall operate or ride upon a motorcycle unless protective headgear, which complies with standards established by the motor vehicle department, is being worn on the head of the operator and rider, except when participating in a lawful parade. If the operator of a motorcycle is required to wear protective headgear, any passenger must also wear protective headgear regardless of the age of the passenger.

(2) This section shall not apply to persons riding within an enclosed cab or on a golf cart. (Ord. 265 Art. XI §11—6, 1984).

13.44.070  Other applicable law.  (a) The provisions of NDCC §39-10.2-07 and all subsequent amendments are incorporated by reference in this title.

(b) All of the provisions of Article XX derived from NDCC Chapter 39-06.1 pertaining to the disposition of traffic offenses shall apply to this chapter. (Ord. 265 Art. XI §11—7, 1984).
Chapter 13.48

BICYCLES

Sections:

13.48.010 Compliance--Applicability.
13.48.020 Traffic ordinances applicable to bicyclists.
13.48.030 Bicyclists to obey traffic-control devices.
13.48.040 Riding on sidewalks.
13.48.050 Roadways and bicycle paths.
13.48.060 Clinging to vehicles.
13.48.070 Carrying articles.
13.48.080 Equipment--Lamp and reflector.
13.48.090 Riding on bicycles--Motorized bicycles.
13.48.100 Parking bicycles.
13.48.110 Penalties.
13.48.120 Point system not applicable.

13.48.010 Compliance--Applicability. (a) It is a violation of this title for any person to do any act forbidden or fail to perform any act required in this chapter.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this title.

(C) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated in this title. (Ord. 265 Art. XII §12, 1984).

13.48.020 Traffic ordinances applicable to bicyclists. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this 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. (Ord. 265 Art. XII §12-2, 1984).

13.48.030 Bicyclists to obey 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, 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. (Ord. 265 Art. XII §12-3, 1984).

13.48.040 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 shall 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. (Ord. 265 Art. XII §12-4, 1984).

13.48.050 Roadways and bicycle paths. The provisions of NDCC §39-10.1-05 and all subsequent amendments are incorporated by reference in this title.

(1) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(2) Persons riding bicycles upon a roadway shall not ride more than two abreast except
on paths or parts of roadways set aside for the exclusive use of bicycles.

(3) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. (Ord. 265 Art. XII §12-5, 1984).

13.48.060 Clinging to vehicles. (a) The provisions of NDCC §39-10.1-04 and all subsequent amendments are incorporated by reference in this title.

(b) No person riding upon any bicycle, coaster, roller-skates, sled, or toy vehicle shall attach the same or himself to any vehicle upon a roadway, except a sled being pulled by a snowmobile. (Ord. 265 Art. XII §12-6, 1984).

13.48.070 Carrying articles. (a) The provisions of NDCC §39-10.1-06 and all, subsequent amendments are incorporated by reference in this title.

(b) No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handlebars. (Ord. 265 Art. XII §12-7, 1984).

13.48.080 Equipment—Lamp and reflector. (a) The provisions of NDCC §39-10.1-07 and all subsequent amendments are incorporated by reference in this title.

(b) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the motor vehicle department. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector. (Ord. 265 Art. XII §12-8, 1984).


(1) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(2) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(3) No person under fourteen years of age may operate a motorized bicycle. (Ord. 265 Art. XII §12-9, 1984).

13.48.100 Parking bicycles. No person shall park a bicycle upon a street other than 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. (Ord. 265 Art. XII §12-10, 1984).

13.48.110 Penalties. Every person convicted of a violation of any provision of this chapter, shall be punished by a fine of not more than fifty dollars or by impounding of such person’s bicycle for a period not to exceed ninety days or by any combination thereof. (Ord. 265 Art. XII §12-11, 1984).

13.48.120 Point system not applicable.

(a) The provisions of NDCC Section 39-10.1-08 and all subsequent amendments are incorporated by reference in this title.

(b) Any violation of the provisions of this chapter, or any moving violation as defined in NDCC Section 20-10, or any nonmoving violation as defined in NDCC Section 20-9 when committed on a bicycle as defined in Section 13.04.030, shall not be cause for the licensing authority to assess points against the driving record of the violator pursuant to NDCC Section 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or noncriminal traffic violation shall be applicable to bicyclists. (Ord. 265 Art. XII §12-12, 1984)
Chapter 13.52

CRIMINAL TRAFFIC VIOLATIONS

Sections:

13.52.010   Reckless driving. (a) The provisions of NDCC Section 39-08-03 and all subsequent amendments are incorporated by reference in this title.
(b) Any person is guilty of reckless driving if he 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.
(c) Except as otherwise provided in this title, any person violating the provisions of this section is guilty of an offense. (Ord. 265 Art. XIII 513-1, 1984).

13.52.020   Accidents involving damage to vehicle. (a) The provisions of NDCC §39-08-05 and all subsequent amendments are incorporated by reference in this title.
(b) 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 remain at the scene of such accident until he has fulfilled the requirements of NDCC §19-4. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with the requirements under such circumstances is guilty of an offense. (Ord. 265 Art. XIII §13-2, 1984).

13.52.030   Accidents involving unattended vehicles. (a) The provision of NDCC §39-08-07 and all subsequent amendments are incorporated by reference in this title.
(b) The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of the vehicle of the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck, a written notice giving the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances of the collision. Any person violating this section is guilty of an offense. (Ord. 265 Art. XIII §13-3, 1984).

13.52.040   Driving while license suspended or revoked. (a) The provisions of NDCC §39-06-42 and all subsequent amendments are incorporated by reference in this title.
(b) Except as provided in NDCC Chapters 39-16 and 39-16.1, and in NDCC §39-06.1-11-11, any person who drives a motor vehicle on any public highway of this state at a time when his license or privilege to do so is suspended or revoked shall be guilty of an offense. In addition to any
other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff for the duration of the period of suspension or revocation, as the case may be, of the offender’s driving license or privilege. The impounded number plates may be released, upon order of the court, to a bona fide purchaser of the offender’s motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the motor vehicle registrar. (Ord. 265 Art. XIII §13-4, 1984).

13.52.050 Snowmobiles--Definitions--Prohibited operation--Use on streets.

(a) Definitions: For the purpose of this section, the following definitions are adopted:

(1) “Daylight” hours means any time except from a half hour after sunset to a half hour before sunrise or at any other time when there is not sufficient light to render clearly discernible persons and vehicles at a distance of five hundred feet.

(2) “Owner” means a person, other than a lien holder, having the property in or title to a snowmobile entitled to the use or possession thereof.

(3) “Operate” means to ride in or on and control the operation of a snowmobile.

(4) “Operator” means every person who operates or is in actual physical control of a snowmobile.

(5) “Person” includes an individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not, and with respect to acts prohibited or required in this chapter includes employees and licensees.

(6) “Register” means the act of assigning a registration number of a snowmobile by the registrar of motor vehicles of the state of North Dakota.

(7) “Registrar” means the registrar of motor vehicles under NDCC §29-02, acting directly or through his authorized agent.

(8) “Roadway” means that portion of a highway improved, designed or ordinarily used for vehicular travel.

(9) “Snowmobile” means a self-propelled vehicle designed for travel on snow or ice or a natural terrain steered by wheels, skis or runners.

(10) “Street” or “highway” means the entire width between the boundary lines of way or place when any part thereof is open to the use of the public in the city, as a matter of right, for the purposes of vehicular traffic.

(b) Prohibited operation: It is unlawful for any person to drive or operate any snowmobile in the following ways or under the following circumstances, which are declared to be unsafe and a public nuisance.

(1) At a rate of speed greater than reasonable or proper under all the surrounding circumstances;

(2) 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;

(3) While under the influence of intoxicating liquor or narcotics or habit-forming drugs;

(4) Without a lighted headlamp and taillamp when required for safety;

(5) In any tree nursery or planting in a manner which damages or destroys growing stock;

(6) Without a manufacturer-installed or equivalent muffler in good working order and connected to the snowmobile exhaust system;

(7) Under the age of fourteen years;

(8) On direct crossing of a street or highway unless:

   (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, and

   (B) The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway, and

   (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;
(9) In violation of any rule or regulation promulgated for regulating the use of snowmobiles by the state highway commissioner where applicable within the geographical limits of the city;
(10) At a speed in excess of ten miles per hour at any time upon any street, alley, highway or other public ground or place in the city;
(11) While towing a sled, skid, or any other vehicle, unless the sled, skid or other vehicle is connected to the snowmobile by a hinged swivel and secure hitch;
(12) Passing another snowmobile while such snowmobile is in operation and underway on any street, alley, highway or other public ground or place in the city;
(13) If the operator does not hold a valid, current North Dakota driver’s license or is not accompanied by a licensed driver who is actually occupying a seat in the snowmobile;
(14) Abreast of another snowmobile upon any street, alley, highway or other public ground or place;
(15) Between the hours of ten-thirty p.m. and seven thirty a.m., except on Friday and Saturday the beginning hour is changed from ten-thirty p.m. to eleven-thirty p.m. with the further exception that snowmobiles entering the city are not limited by time as long as they meet with the provisions of this title;
(16) In any municipal park or recreation area except when posted as “open” to snowmobiles, and within the hours permitted;
(17) Upon private property, other than that of the snowmobile owner, or operator, without express permission of the owner;
(18) While carrying a strung bow or loaded firearm;
(19) Leaving or allowing a snowmobile to be or remain unattended on public property, streets, highways or other public grounds or places while the motor is running or with keys to start the same in the ignition switch;
(20) At any time with more than two persons riding thereon in addition to the operator;
(21) Without observing all traffic signs, signals, rules and regulations applying to motor vehicles when also applicable to snowmobiles.
(c) Prohibition of use on all streets: No person shall operate a snowmobile upon any road, street, or highway, in this city kept open for vehicular traffic, except:
(1) During a period of emergency when travel by other vehicles is not possible;
(2) For a special snowmobile event of limited duration when conducted on a prearranged schedule under permit from the governing body;
(3) In crossing a street as provided in this chapter;
(4) On streets or roads not maintained for winter vehicular travel;
(5) In traveling from the operator’s place of residence to the edge of the city limits, using the shortest route from the operator’s residence to the edge of the city’s limits.
(d) Permissible use on streets as regulated in this title: No person shall operate a snowmobile upon the roadway, shoulder, or inside bank or slope of any road, street or highway in this city except as provided in this title. No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one headlamp, one taillamp and brakes all in working order which conform to standards prescribed by rule of the highway commissioner. When snowmobiles are operated within the right-of-way of any road, street or highway of this city pursuant to this title during times or conditions that warrant the use of lights, such snowmobiles shall travel in the same direction as the direction of motor vehicles on the side of the roadway immediately adjacent to the side of the right-of-way traveled by the snowmobile.
(e) Any person who shall violate subdivisions B and C of subsection (b) of this section shall be guilty of a class B misdemeanor. (Ord. 265 Art. XIII §13-5, 1984).

13.52.060 Penalty for harassment of domestic animals. (a) The provisions of NDCC §39-08-19 and all subsequent amendments are incorporated by reference in this title.
(b) Any person operating a motorcycle, snowmobile or other motor vehicle as defined in Section 13.04.360 of this code who willfully harasses or frightens any domestic animal, shall, upon conviction, be guilty of an offense. If injury or death results to the animal due to such action, such
person shall be liable for the value of the animal and exemplary damages as provided in NDCC §36-21-13. (Ord. 265 Art. XIII §13-6, 1984).

13.52.070  Motor vehicles prohibited on flood protective works--Exception--Penalty. The provisions of NDCC §39-10-65 and all subsequent amendments are incorporated by reference in this title.

   (1)    Unless authorized by the authority in charge thereof, no person shall operate a motor vehicle, tractor, or other vehicle upon or across any flood protective works, including but not limited to, any dike or flood protective works constructed by a state or federal agency, or by any municipality or local subdivision of the state.

   (2)    Any person violating the provisions of this section shall be liable to any person suffering injury as a result of the violation; and in addition, is guilty of an offense. (Ord. 265 Art. XIII §13-7, 1984).

13.52.080  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. (Ord. 265 Art. XIII §13-8, 1984).

13.52.090  License to be carried and exhibited on demand.  (a) The provisions of NDCC §39-06-16 and all subsequent amendments are incorporated by reference in this title.

   (b)    Every licensee shall have his operator’s license or permit in his immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of any district court, municipal court, a county court, a patrolman, peace officer, or a field deputy or inspector of the highway department. However, no person charged with violating this section shall be convicted or assessed any court cost if he produces in court, to the chief of police or in the office of the arresting officer, an operator’s license or permit theretofore issued to him, valid and not under suspension, revocation or cancellation at the time of his arrest. (Ord. 265 Art. XIII §13-9, 1984).

13.52.100  Refusal to stop and be weighed. (a) The provisions of NDCC §39-12-21 and all subsequent amendments are incorporated by reference in this title.

   (b)    Any driver of a vehicle who refuses to stop and submit the vehicle and load to a weighing when directed to do so by the police officer or any agent of this state having police powers relating to motor vehicles, is guilty of an offense. (Ord. 265 Art. XIII §13-10, 1984)
Chapter 13.56

DISPOSITION OF TRAFFIC OFFENSES

Sections:

13.56.010   Duty of officer halting violators. (a) The provisions of NDCC §39-07-07 and all subsequent amendments are incorporated by reference in this title.
(b) Whenever any person is halted for the violation of any of the provisions of NDCC Chapters 39-01 through 39-13, 39-13, 39-21, and 39-24, or of equivalent city ordinances, the officer halting such person, except as otherwise provided in Section 13.56.030, may:
(1) Take the name and address of such person;
(2) Take the license number of his motor vehicle; and
(3) Issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice.
(c) A halting officer employed by any political subdivision of the state may not take a person into custody or require that person to proceed with the officer to any other location for the purpose of posting bond, where the traffic violation was a noncriminal offense under NDCC §39-06.1-02. The officer shall provide the person with an envelope for use by that person to mail the bond. (Ord. 265 Art. XIV §14-1, 1984).

13.56.020   Hearing--Time--Promise to appear. (a) The provisions of NDCC §39-07-08 and all subsequent amendments are incorporated by reference in this title.
(b) The time to be specified in the summons or notice provided for in Section 13.56.010 shall be within ten days after the issuance of such summons or notice unless the person halted demands an earlier hearing, and if the person halted desires, he may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four hours. Such hearing shall be before the municipal court. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, such officer shall release him from custody. Any person refusing to give such written promise to appear shall be taken immediately by the halting officer before the nearest or most accessible magistrate, or to such other place or before such other person as may be provided by a statute or ordinance authorizing the giving of bail.
(c) Any person willfully violating his written promise to appear is guilty of an offense, regardless of the disposition of the charge upon which he originally was halted. (Ord. 265 Art. XIV §14-2, 1984).

13.56.030   Conditions under which person halted may not be released. (a) The of NDCC §39-07-09 and all subsequent amendments are incorporated by reference in this title.
(b) The provisions of Section 13.56.010 shall not apply to a person if:
(1) The halting officer has good reason to believe such person guilty of any felony or when such person is halted and charged with any of the offenses listed in ~Section 13.56.070 except reckless driving, or
(2) The halting officer, acting within his discretion, deems it inadvisable to release
such person upon his promise to appear when halted and charged with either of the following offenses:

(A) Reckless driving; or
(B) Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.

(c) The halting officer forthwith shall take any person not released upon his promise to appear before the nearest or most accessible magistrate. (Ord. 265 Art. XIV §14-3, 1984).

13.56.040 Noncriminal traffic violations--Appearance or forfeiture--Disposition. (a) The provisions of NDCC §39-06.1-02 and all subsequent amendments are incorporated by reference in this title.

(b) Any person cited, in accordance with the provisions of §§39-07-07 and 39-07-08, for a traffic violation under state law or municipal ordinance, other than an offense listed in §39-06.1-05, is charged with a noncriminal offense and may appear before the designated official and pay the statutory fee for the violation charged at or prior to the time scheduled for a hearing, or, if he has posted bond in person, as provided by §39-07-07, or by mail, he may forfeit bond by not appearing at the designated time. If the person appears at the time scheduled in the citation, he may make a statement in explanation of his action, and the official may at that time, in his discretion, waive, reduce or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, he shall have admitted the violation and 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. Within ten days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the licensing authority:

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

(c) 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. (Ord. 265 Art. XIV §14-4, 1984)

13.56.050 Administrative hearing--Prepaid costs--Procedures--Appeals--Stay orders. The provisions of NDCC §39-06.1-03 and all subsequent amendments are incorporated by reference in this title.

(1) If a person cited for a traffic violation, other than an offense listed in Section 13.56.070, does not choose to follow one of the procedures set forth in Section 13.56.040, he may request a hearing on the issue of his commission of the violation charged, the hearing to be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance.

(2) At the time of a request for a hearing on the issue of commission of the violation, the person charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the violation charged.

(3) If a person cited for a traffic violation, other than an offense listed in Section 13.56.070, who has requested a hearing on the issue of the commission of the violation charged, appears at the time scheduled for the hearing and the state or city, as the case may be, does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.

(4) If the official finds that the person committed the traffic violation, he shall notify the licensing authority of that fact, and whether the person 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 a person has admitted a violation, or has, in any proceeding, been found to have committed a violation, shall not be referred to in any way, nor be admissible as evidence in any court, civil, equity or criminal, except in an action or proceeding involving that person's driving license or privilege.

(5) A person found guilty of committing a traffic violation may seek recourse by filing a notice of appeal:
(A) If a person is aggrieved by a finding that he committed the violation, he may, without payment of filing fee, appeal that finding to the district court for trial anew, and the case may be tried to a jury, if requested. If, after trial in the district court, the person is again found to have committed the violation, there shall be no further appeal. Notice of appeal under this subsection shall be given within thirty 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 he adjudges that a violation has been committed. Otherwise, notice of appeal shall be in writing and filed with the official and a copy of the notice shall be served upon the city attorney or state’s attorney, as the case may be. An appeal taken under this subsection shall not operate to stay the reporting requirement of subsection (4) of this section, nor to stay appropriate action by the licensing authority upon receipt of that report.

(B) The district court, upon application by the appellant, may:

   (i) Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty days;
   (ii) Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one hundred twenty days;
   (iii) Deny the application.

An application for a stay or temporary certificate under this subdivision shall be accompanied by a certified copy of the appellant’s driving record, for the furnishing of which the licensing authority may charge a fee of two dollars. Any order granting a stay or a temporary certificate shall be forwarded forthwith by the clerk of court to the licensing authority in accordance with the order in the manner provided by law. A court shall not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. A person who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued pursuant to this subdivision shall be guilty of a traffic violation and shall be assessed a fee of twenty dollars.

(C) If a person charged is found not to have committed the violation by the district court of the jury, the clerk of court shall report that fact to the licensing authority immediately. If an appeal under this subsection is from a violation of a city ordinance, the city attorney for the city wherein the alleged violation occurred shall prosecute the appeal. In all other cases, the appropriate state’s attorney shall prosecute the appeal.

(6) The city must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection (5) of this section, the court and parties shall follow, to the extent applicable, the North Dakota Rules of Civil Procedure. If on appeal from the finding of the official, the finding is affirmed, costs may be assessed at the discretion of the trial judge.

(7) As used in Sections 13.56.040 through 13.56.060, the word “official” means a municipal judge. (Ord. 265 Art. XIV §14-5, 1984).

13.56.060 Failure to appear--Procedure--Penalty. The provisions of NDCC 539-06.1-04 and all subsequent amendments are incorporated by reference in this title.

If a person fails to choose one of the methods of proceeding set forth in Sections 13.56.040 and 13.56.050, he shall have admitted to commission of the violation charged, and the municipal court shall report such fact to the licensing authority within ten days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is an offense. Failure to appear without just cause at the hearing is also an admission of commission of the violation charged. (Ord. 265 Art. XIV §14-6, 1984).

13.56.070 Offenses--Exceptions. The provisions of NDCC §39-06.1-05 and all subsequent amendments are incorporated by reference in this title.

The procedures authorized under Sections 13.56.040 and 13.56.050 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 while under the influence of a controlled substance or intoxicating liquor in violation of DUT laws;
(2) Reckless driving or aggravated reckless driving in violation of Section 13.52.010;
Negligent homicide in violation of NDCC §12.1-16-03;
Manslaughter resulting from the operation of a motor vehicle;
Leaving the scene of an accident in violation of Sections 13.52.020 and 13.52.030;
Driving while license or driving privilege is suspended or revoked in violation of Section 13.52.040;
Violating subdivisions (B) or (C) of subsection (2) of Section 13.52.050. (Ord. 265 Art. XIV §14-7, 1984).

13.56.080  Amount of statutory fees.  The provisions of NDCC §39-06.1-06 and all subsequent amendments are incorporated by reference in this title.

The fees required for a noncriminal disposition pursuant to either Sections 13.56.040 or 13.56.050 shall be as follows:

(1)  For a nonmoving violation as defined in NDCC §39-06.1-08, a fee of ten dollars;
(2)  For moving violation as defined in NDCC §39-06.1-09, a fee of twenty dollars;
(3)  For a violation of NDCC §39-09-02, or an equivalent ordinance, the penalty shall be a fee of forty dollars;
(4)  For a violation of NDCC §39-09-01, or an ordinance defining careless driving, a fee of thirty dollars;
(5)  For a violation of NDCC §39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars;
(6)  For a violation of NDCC §39-09-02, or an equivalent ordinance, which violation is not provided for in subsection (3) of this section, the penalty shall be a fee and a point assessment against the driver's license as follows:
   (A)  From one to five miles per hour in excess of the lawful limit, a fee of five dollars and no points,
   (B)  From six to ten miles per hour in excess of the lawful speed limit, a fee of ten dollars and one point,
   (C)  From eleven to fifteen miles per hour in excess of the lawful speed limit, a fee of fifteen dollars and two points,
   (D)  From sixteen to twenty-five miles per hour in excess of the lawful speed limit, a fee of twenty dollars, and four points; and
   (E)  Twenty-six miles or more per hour in excess of lawful speed limit, a fee of twenty-five dollars and six points;
(7)  For a violation of NDCC §39-08-20, a fee of not less than twenty-five dollars nor more than one hundred dollars. (Ord. 265 Art. XIV §14-8, 1984).

13.56.090  “Nonmoving violation” defined.  The provisions of NDCC §39-06.1-08 and all subsequent amendments are incorporated by reference in this title.


13.56.100  “Moving violation” defined.  The provisions of NDCC §39-06.1-09 and all subsequent amendments are incorporated by reference in this title.

For the purpose of Section 13.56.080, a “moving violation” means a violation of Sections 13.12.090(1), 13.20.050, 13.36.320, 13.44.020--13.44.060, 13.52.050(2) or 13.52.090, except those sections which are specifically listed in Section 13.56.090. (Ord. 265 Art. XIV §14-10, 1984).

13.56.110  General penalty.  The provisions of NDCC §39-07-06 and all subsequent amendments are incorporated by reference in this title.

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. (Ord. 2E-5 Art. XIV §14-11, 1984).

13.56.120 Juvenile traffic offenders--Notification of parents or guardians. 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. (Ord. 265 Art. XIV §14-12, 1984).
Chapter 13.58

TRUCK ROUTES

Sections:

13.58.010 Definitions. For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

(1) “City” means the city of Rugby, North Dakota.
(2) “Deviating truck” means a truck which leaves and departs from a truck route while traveling inside the city.
(3) “Person” means any person, firm, partnership, association, corporation, company or organization of any kind.
(4) “Truck” means any vehicle designed or operated for the transportation of property, and whose body weight or whose combined body and load weight exceeds fifteen thousand pounds.
(5) “Truck route” means a way over certain streets, as designated in this chapter, over and along which trucks coming into and going out of the city must operate. (Ord. 309 §1, 1991).

13.58.020 Applicability of provisions. All trucks within the city shall be operated only over and along the truck routes established in this chapter and on the other designated streets over which truck travel is permitted. (Ord. 309 §2 (part), 1991).

13.58.030 Exceptions to provisions. This chapter shall not prohibit:

(1) Operation on Street of Destination. The operation of trucks upon any street where necessary to the conduct of business at a destination point, provided streets upon which such traffic is permitted are used until reaching the intersection nearest the destination point;
(2) Emergency Vehicles. The operation of emergency vehicles upon any street in the city;
(3) Public Utilities. The operation of trucks owned or operated by the city, public utilities, any contractor or material man, while engaged in the repair, maintenance or construction of streets, street improvements, or Street utilities within the city;
(4) Detoured Trucks. The operation of trucks upon any officially established detour in any case where such truck could lawfully be operated upon the street for which such detour is established.
(5) Operation of Garbage Trucks. Any properly operating garbage or refuse truck or vehicle may operate on these streets in the ordinary course of business. (Ord. 386, 2014; Ord.309 §2(1), 1991)

13.58.040 Transport of chemicals. All vehicles carrying and pulling containers or carrying or pulling empty containers used for the purpose of containing ammonia, fertilizer or other chemicals, with the exception of the provisions listed in 13.58.030, shall be operated only over and along the truck route established in this chapter by the city. "Vehicles" shall include, but not be limited to, automobiles, pickups and trucks whether private or commercial. (Ord. 386, 2014; Ord. 309 §2(2), 1991).
13.58.050 Truck routes--Through the city. (a) There are established within the city the truck routes set out in this section.

(b) Outside Origin--Outside Destination. All trucks entering the city for destination points outside the city shall operate only over the following designated routes:

1. North and south, N.D. Highway No. 3
2. East and west, First Street West and First Street East. (Ord. 309 §3, 1991).

13.58.060 Truck routes--In the city.

1. One Inside Destination Point. All trucks entering the city for a destination point in the city shall proceed only over an established truck route and shall deviate only at the intersection with the street, upon which such traffic is permitted, nearest to the destination point. Upon leaving the destination point, a deviating truck shall return to the truck route by the shortest permissible route.

2. Multiple Inside Destination Points. All trucks entering the city for multiple destination points shall proceed only over established truck routes and shall deviate only at the intersection with the street, upon which such traffic is permitted, nearest to the first destination point. Upon leaving the first destination point a deviating truck shall proceed to other destination points by the shortest direction and only over streets upon which such traffic is permitted. Upon leaving the last destination point, a deviating truck shall return to the truck route by the shortest permissible route.

(b) Inside Origin.

1. Outside Destination Point. All trucks, on a trip originating in the city and traveling in the city for a destination point outside the city shall proceed by the shortest direction over streets upon which traffic is permitted to a truck route as established in this chapter.

2. Inside Destination Points. All trucks on a trip originating in the city and traveling in the city for destination points in the city shall proceed only over streets upon which such traffic is permitted. (Ord. 309 §4, 1991).

13.53.070 Maps. The city auditor shall keep and maintain accurate maps setting out truck routes and streets upon which truck traffic is permitted. The maps shall be kept on file in the office of the city auditor and shall be available to the public. (Ord. 309 §5(1), 1991).

13.58.080 Signposting. (a) The city shall cause all truck routes and those streets upon which truck traffic is prohibited to be clearly signposted.

(b) No person shall be charged with violating the provisions of this chapter by reason of operating a truck upon a street wherein truck travel is prohibited unless appropriate signs are posted on such street. (Ord. 309 §5(2), 1991).

13.58.090 Weigh scales. The city law enforcement official shall have the authority to require any person driving or in control of any commercial vehicle not proceeding over a truck route or street over which truck traffic is permitted to proceed to any public or private scale available for the purpose of weighing and determining whether this chapter has been complied with. (Ord. 309 §5(3), 1991).

13.58.100 Violation--Penalty. Any person found violating any of the provisions of this chapter may be punished according to the provisions of Section 1.01.110 oh this code. (Ord. 309 §6, 1991).
Chapter 13.60

NDCC

Sections:

13.60.010   Sections not adopted. The sections of Title 39 of the North Dakota Century Code not expressly adopted in this title, are not adopted by reference. (Ord. 265 Art. XV, 1984)

13.60.020   Copy on file for public perusal. 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 NDCC §40-05-01 (1) for use and examination by the public. (Ord. 265 Art. XVI, 1984)

13.60.030   Amendments. 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 Section 13.60.030 shall at all times be kept current in the office of the city auditor of this city. (Ord. 265 Art. XVII, 1984)
Chapter 13.61

OFF HIGHWAY VEHICLES

Sections:

13.61.010 Operation of Off-Highway Vehicles.
13.61.020 Operation by persons under age twelve prohibited.
13.61.030 Operation by persons without a valid driver’s license
13.61.040 When Unsafe
13.61.050 Penalties

Words and phrases used in this ordinance shall have the meaning and be defined as provided in the North Dakota Century Code in Title 39, and Section 39-29 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. “Off-highway vehicle” means any wheeled motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. An off-highway vehicle must be classified into one of the following categories
   a. Class I off-highway vehicle is a vehicle that does not qualify as road capable under NDCC chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
   b. Class II off-highway vehicle is less than fifty inches (1,270.00 millimeters) in width, travels on three or more low-pressure tires, has a saddle designed to be straddled by the operator, and has handlebars for steering control.
   c. Class III off-highway vehicle weighs less than eight thousand pounds, travels on four or more tires, has a seat and a wheel for steering control, and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, unless registered by the North Dakota Motor Vehicle Department under chapter 39-04 of the North Dakota Century Code.(Ord. 383, 2013)

1. An individual may not operate an off-highway vehicle on the roadway, shoulder, or inside bank or slope of any road, street, alley or highway within the city limits of Rugby, ND, except as provided by this ordinance.
2. All off-highway vehicles must meet the registration and insurance requirements, when being operated upon any street, alley, roadway or highway.
   a. An individual may operate a registered off-highway vehicle on a paved, gravel, dirt, or loose surface roadway, within the city limits, at a speed not greater than posted, for normal vehicular traffic.
   b. All operators must obey all traffic signs and signals as normal vehicular traffic.
   c. All operators must have a valid driver’s license, permit, or safety certificate, proof of registration and insurance in their possession at all times while operating an off-highway vehicle within the city limits of Rugby, ND, or must provide proof of valid driver’s license, permit, or safety certificate, proof of registration and insurance within 20 days of a valid request to provide such information.
3. An individual may not operate an off-highway vehicle unless it is equipped with at least one headlamp, one tail lamp, and brakes, a manufacturer-installed or equivalent muffler all in working order, which conform to standards prescribed by rule of the director. (Ord. 355, 2006, Ord 383, 2013)

13.61.020 Operation by persons under age twelve prohibited. A person under twelve years of age who is not in possession of a permit to operate an all-terrain vehicle may not, except upon the lands of the person’s parent or guardian or upon privately owned land with the permission of the landowner, operate an all-terrain vehicle. (Ord. 383, 2013)

13.61.030 Operation by persons without a valid driver’s license. A person at least twelve years of age, whom is not in possession of a valid driver’s license may operate an all-terrain vehicle within the city limits provided the following criteria are met:
1. The individual is making their way out of town, by the most direct route,
2. The individual has completed an all-terrain vehicle safety training course prescribed by the director of the parks and recreation department and has received the appropriate off-highway vehicle safety certificate issued by the director of the department of transportation, and

3. All requirements in sections 13.61.010 (3) and 13.61.040 are followed. The failure of an operator to exhibit an off-highway vehicle safety certificate on demand to any official authorized to enforce this chapter or within 20 days of such demand is presumptive evidence that that person does not hold such a certificate. - . (Ord 355, 2006, Ord 383, 2013)

13.61.040 When unsafe. An individual may not operate an off-highway vehicle 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 another person or the property of another person.

   c. While under the influence of intoxicating liquor or a controlled substance.

   d. On any private land where the private land is posted prohibiting trespassing.

   e. An individual under the age of eighteen years may not operate, ride, or otherwise be propelled on an off-highway vehicle unless the person wears a safety helmet meeting United States department of transportation standards. (Ord 355, 2006, Ord 383, 2013)

13.61.050 Penalties. Violation of subdivision b, c, or d of section 13.61.040 is a class B misdemeanor. Violation of any other provision of this ordinance is an infraction for which a fee of twenty dollars must be assessed. Violation of section 13.61.01 (failure to register off-highway vehicle) is an infraction, for which a fee of fifty dollars must be assessed. If the individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed. (Ord 355, 2006)
Chapters:

14.04  Water Department
14.08  Water Service
14.16  Water Treatment Plant
14.20  Sewer System
14.24  Wastewater System Service Charges
Chapter 14.04

WATER DEPARTMENT

Sections:

14.04.010 Established
14.04.020 Appointment and Duties of Superintendent of Waterworks

14.04.010 Established. For the purpose of regulating and running the waterworks owned by the city, there is hereby established a department to be known as the water department, which shall be under the control and management of the city council.

14.04.020 Appointment and Duties of Superintendent of Waterworks. The Superintendent of Waterworks shall be appointed by the city council, and it shall be his duty to see that all rules, regulations, and ordinances relating to the waterworks are enforced, he shall read the water meters, bill for and collect the water rents and shall immediately upon collection thereof account for same to the city auditor and shall take his receipt therefore and he shall perform such other duties in respect to the waterworks as the city council may from time to time impose upon him. (Ord. 354, 2006)
Chapter 14.08

WATER SERVICE

Sections:

14.08.010 General regulations
14.08.020 Application for service - Charges for Connection
14.08.030 Tapping Main
14.08.040 Other applications
14.08.050 Each premise to have separate service connection
14.08.060 Cost, Maintenance and Injury of Equipment
14.08.070 Maintenance and testing of water meters
14.08.080 Use of water by other than owner of premise - Tampering with curb stop
14.08.090 Claims for defective service
14.08.100 Implied consent
14.08.110 Discontinuance of service - Reconnection charge
14.08.120 Service pipe regulations
14.08.130 Curb Stops
14.08.140 Check valves on steam boilers
14.08.150 Water rates
14.08.160 Appeal of unjust rates
14.08.170 Fire hydrants
14.08.180 Billing regulations
14.08.190 Water and sewer revenue fund
14.08.220 Use of water during water emergency
14.08.230 Nonliability of city for necessary repairs
14.08.240 When water to be turned on
14.08.250 Waste of water prohibited
14.08.260 Responsibility for water charges
14.08.270 Excavations not to obstruct traffic
14.08.280 Barricades and lights for excavations
14.08.290 Refilling excavations – Permit fee
14.08.300 Inspection of premises using water
14.08.310 Tampering with public hydrants
14.08.320 Penalty for violation

14.08.010 General regulations. The waterworks and water mains comprising the water system of the city shall be operated as a public utility of the city, and the rates, charges, regulations and provisions of this chapter shall be and remain applicable thereto until duly amended. The city reserves the right and power to amend this chapter from time to time as the need or propriety thereof arises, and the rates and charges herein specified may thereby be increased or decreased; provided that, as so amended, the gross revenues derived from the system shall be sufficient to pay all reasonable and current costs of operation and maintenance thereof, transfers to the depreciation account and net revenue account as provided in Section 14.08.240, and the full amount of transfers to the funds of water main and sewer districts nos. 1 to 6, inclusive, of net revenues derived from and traceable to the improvements in such respective districts, which are covenanted to be made and transferred in and by the resolution adopted September 7, 1948, entitled “A Resolution Creating Funds of Sewer District No. 1 and Water Main and Sewer Districts Nos. 1 to 6, inclusive, Providing for and Appropriating Special Assessments and Net Revenues for the Support and Maintenance of Said Funds, and Directing Issuance of Improvement Warrants Thereon”. (Ord. 354, 2006)

14.08.020 Application for service - Charges for Connection. Any person desiring water service from the utility for premises not previously connected for such service shall apply for a connection on a form provided by the city. The application shall state an exact description of the premises to be served on which the water is to be put, or, if for sewerage, the source of water to be used on the premises. Such application shall be filed with the city auditor. All service pipes, curb stops, corporations stops and fixtures from the water main to the curb stop, the curb stop box, and the water meter, must be installed
at the expense of the applicant/owner, but the service pipes to the curb stop, the curb stop itself, and the meter shall remain under the control and ownership of the city. The cost of such installation shall be set by the City Council. Such connections and installation shall be by city employees only. The applicant/owner shall be responsible for the service line from the curb stop to the water meter and shall keep as such in good repair. (Ord. 354, 2006)

14.08.030 Tapping main. No less than a one inch Lap shall be inserted in any main or lateral for a residential connection; but two or more taps may be used provided that no tap shall be placed nearer than six inches to the joint; and such taps shall be placed eighteen inches apart. The service pipe shall be one-eighth of an inch larger than the brass ferrule or nipple tapped onto the main. (Ord. 354, 2006)

14.08.040 Other applications. Any party, other than the original applicant, desiring water or sewerage service for premises where a connection has been made pursuant to Section 14.08.020 shall make written application therefore as in cases described in Section 14.08.020, 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 14.08.020. (Ord. 354, 2006)

14.08.050 Each premise to have separate service connection. Unless special permission is granted by the superintendent of waterworks, or city engineer, each premises shall have a separate and distinct water service connection, and where permission is granted for branch service systems each branch system must have its own separate meter and separate curb stop. (Ord. 354, 2006)

14.08.060 Cost, maintenance, and injury of Equipment. The cost of original installation of plumbing between the curb and any service devices maintained by the consumer and all extensions made to such plumbing, as well as all repairs, shall be borne entirely by the consumer, although such plumbing and services as well as the meters shall at all reasonable times be subject to inspection by duly authorized representatives of the city. Any repairs found to be necessary by such representative shall be made promptly or the city will discontinue service. Whoever willfully and unlawfully disturbs, digs up, or injures and water main, service line, manhole, curb stop, meter or appurtenance shall be subject to the penalty defined in Section 14.08.900. (Ord. 354, 2006)

14.08.070 Maintenance and testing of water meters. Every consumer shall provide a suitable place where a water meter can be installed and the city shall install and maintain the same, and if at any time the consumer desires to have the meter tested for accuracy, the same shall be done by the city. If the meter registers ninety-eight percent or more accurate, the consumer shall pay a fee as determined by the city council. If the meter registers less than ninety-eight percent accurate, it shall be replaced at the city’s cost. The meter shall at all times be available for inspection. (Ord. 354, 2006)

14.08.080 Use of water by other than owner of premises - Tampering with curb stop. It shall be unlawful for any person to use water from any premises without the consent of the owner, or to use water from the city water system except when drawn through a meter installed by the city. No person except an authorized representative or the superintendent of waterworks shall turn on or off or tamper with any curb stop. (Ord. 354, 2006)

14.08.090 Claims for defective service. All claims for defective service shall be made in writing and filed with the superintendent on or before the tenth day of the month next succeeding such defective service, or be deemed waived by the claimant; and if such claims are so filed, it shall be the duty of the superintendent to investigate the facts alleged in such claim and determine the amount, if any, which should be refunded to such claimant by reason of such defective service and report such determination to the city council, and if approved by that body, such amount shall be allowed as a 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 under the provisions hereof. (Ord. 354, 2006)

14.08.100 Implied consent. Every person applying for water or sewerage service from the municipal system, and every owner of property for which such application is made shall be deemed by such application to consent to all the rules, regulations and rates contained in the resolutions or ordinances
of the city and to any modification thereof, and to all new rules, regulations or rates duly adopted. 
(Ord. 354, 2006)

14.08.110 Discontinuance of service - Reconnection charge. The city reserves the right to 
discontinue service to any or all customers of the water system, without notice, when necessary for 
repairs or for nonpayment of bills or for disregard of rules and regulations affecting the service. When 
service has been discontinued for nonpayment of bills or for disregard of regulations, it shall not be 
resumed except upon payment of the bills, together with interest thereon at the rate of twenty one 
percent per annum or 1.75 percent per month, and full compliance with the regulations and payment 
to the city auditor of a fee established by the city council for re-established service. In the event any 
customer or user of the water system desire to discontinue using such service, a fee established 
by the city council shall be imposed upon such customer or user as for the cost of such discontinuance 
or disconnection. A like fee as established by the city council shall be imposed upon such customer or 
user if he desires to reinstate such service. (Ord. 354, 2006)

14.08.120 Service pipe regulations. All service pipes connected with the water system shall be 
copper and shall be laid eight feet below the established grades or as low as the street mains in 
accordance with the ND State Plumbing Code. (Ord. 354, 2006)

14.08.130 Curb Stops. 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 light-fitting iron lid with the letter “W” cast 
upon it. There shall be one or more ball valves 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 meter and the house plumbing 
totally drained. There shall be another such ball valve in the pipe on the house side of the meter. 
(Ord. 354, 2006)

14.08.140 Check valves on steam boilers. Check valves are hereby required on all water 
connections to steam boilers or any connection deemed by the superintendent to require one. Safety 
and release valves shall be placed on all boilers or other steam apparatus connections with the water 
system where the steam pressure may be raised in excess of fifty pounds per square inch. (Ord. 354, 
2006)

14.08.150 Water rates. The rates to be made for the payment of water furnished by the city shall be 
those rates as set by the city council and the city reserves the right to change the rates for the use of 
water from time to time as it may deem best, and at all times set the rates as needed. When water is 
used for purposes not referred to in the chapter, the rate shall be fixed by the city council. (Ord. 354, 
2006)

14.08.160 Appeal of unjust rates. The owner or occupant of any residential or commercial premises 
who, by reason of special circumstances, finds the foregoing rates unjust or inequitable as applied to 
his premises, may make a written application to the city council stating such circumstances and 
requesting a different basis of charges for water services to his premises; and if such application be 
approved by the council, the council shall by resolution fix and establish a fair and equitable rate for 
such premises during the period of such special circumstances. (Ord. 354, 2006)

14.08.170 Fire hydrants. The city shall also budget and pay out of general funds applicable thereto 
the sum of no dollars per month for each fire hydrant maintained by the city from time to time, which 
sum is found and determined to be a reasonable charge for the service which shall be rendered by the 
system to the city and the availability of such service for prevention and extinguishment of fires, 
maintenance and sanitation of public streets and other public purposes. (Ord. 354, 2006)

14.08.180 Billing regulations. The city auditor shall prepare monthly statements of water, sewer, 
garbage, and other charges for each utility customer and mail or deliver one thereof to the utility 
customer, and retain a listing of each statement for reference and records in the city auditor’s office. 
Each utility customer is responsible for reading and entering his or her water meter reading on the 
utility statement and returning it with the required utility statement on a monthly basis with payment. If
no meter reading is received within a two-month period, a five-dollar service charge will be added to the next billing cycle. If utility bills are not paid within the time period of forty-five days from receipt, the superintendent of waterworks or designated employee of the water department shall promptly discontinue service to the premises until reestablished as provided in Section 14.08.110. Payment of late or delinquent water utility statements over thirty days due shall be paid in full before service shall be reestablished unless other payment arrangements are made with the office of the city auditor. (Ord. 354, 2006)

14.08.190 Water and sewer revenue fund. From and after placing of the water and sewer system in operation, there shall be created and maintained a separate and special fund of the city to be known as the "Water and Sewer Revenue Fund". Into the fund shall be paid as received all collections of rates and charges imposed for the availability and services of the water and sewer system and from the sale of products thereof, as such system exists or may from time to time be improved. Within the water and sewer revenue fund there shall be maintained an account designated as the "Operation and Maintenance Account", into which account shall be paid all gross revenues of the water and sewer utility, and from the account shall be paid all, but only, such items as by sound accounting practices constitute normal, reasonable and current costs of operation and maintenance of the plant and system. The revenue remaining after such payments shall constitute the net revenues of the utility. There shall also be maintained in the water and sewer revenue fund an account designated as the "Net Revenue Account", into which all of the net revenues, as hereinabove defined, shall be credited and paid... Nothing herein shall prevent the council from establishing other accounts or subfunds in the water and sewer revenue fund for payment of additional obligations to be issued with respect to the water and sewer utility, but the lien of any such additional obligations on the net revenues of the water and sewer utility, but the lien of any such additional obligations on the net revenues of the water and sewer utility shall lie subordinate to the lien of the obligations hereinabove described, except as may be otherwise authorized by the resolutions authorizing issuance of the obligations hereinabove described. (Ord. 354, 2006)

0114.08.220 Use of water during water emergency.

(a) The municipality reserves the right to restrain or prohibit the use of water during the time of water emergencies. "Water emergencies" means a time or times when the municipality deems the health and safety of the residents may be endangered through use of water supplied by the municipal waterworks system.

(b) It is declared to be unlawful for any person in this municipality, or any person owning or occupying premises connected to the municipal water system, to use or allow to be used during a water emergency any water from the system, except as provided by regulations established by the municipality for purposes of providing for the health and safety of the residents of the municipality during the time of the water emergency.

(c) Regulations for the use of city water during the time of water emergencies when not: otherwise referred to in this chapter, shall be fixed by the city council. (Ord. 354, 2006)

14.08.230 Nonliability of city for necessary repairs. The city of Rugby shall not be liable nor shall any claim be made against it on account of the breaking of pipes or curb stops or interruption of the supply or by the breakage of machinery or stoppage for necessary repairs and no deductions or rates will be made during the time private water is frozen. (Ord. 354, 2006)

14.08.240 When water to be turned on. The water will not be turned into any private house or service pipe except upon the order of the superintendent of waterworks. All persons are strictly prohibited from turning the water into any service pipe except upon permission of the superintendent of waterworks. This rule shall not be construed to prevent any plumber from turning water into such pipe for the purpose only of testing the pipe. (Ord. 354, 2006)

14.08.250 Waste of water prohibited. No person shall permit the city water to run continuously from fixture, nor unnecessarily waste any city water. When the superintendent of waterworks shall discover any leakage or waste, he shall immediately notify the consumer of such fact, and it shall be the duty of such consumer to at once make the necessary repairs to prevent such waste and, upon his failure so to do for forty-eight hours after receiving such notice, it is hereby made the duty of the superintendent of waterworks to forthwith shut off the water on such premises and not to turn the same on again until
such repairs have been made to his satisfaction, nor until the consumer has paid all costs in connection therewith, together with any fine that may be adjudged against him in any prosecution therefore. (Ord. 354, 2006)

14.08.260 Responsibility for water charges. The owner or owners of all real property in the city being furnished with water services 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. On request of the owner or owners, the city auditor shall bill 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. (Ord. 354, 2006)

14.08.270 Excavations not to obstruct traffic. When excavations are made in streets for the laying of service pipes, all stone, earth, lumber, etc., must be so placed as to cause the least obstruction to traffic, and must not be so placed as to obstruct the gutter. (Ord. 354, 2006)

14.08.280 Barricades and lights for excavations. No excavations shall be left open without barricades and warning lights at night. While the ground is frozen no excavations shall be made nearer than eight feet to any water pipe then in use. (Ord. 354, 2006)

14.08.290 Refilling excavations - Permit fee. (a) No excavation shall be made in any street, avenue, alley or public way within the city by any person, firm or corporation without first obtaining a permit from the city auditor. The fee for such permit shall be set by the city council for each water excavation; and for each other excavation of any kind whatsoever. Such fee shall be paid to the city auditor before the issuance of such permit and shall not be refundable in any case. Any excavation shall be refilled within 24 hours after being opened, and shall be filled, settled and tamped, acceptable to the city water superintendent, to within six inches of the surface of such street or other public way, within such time. The city will thereupon cause the excavation to be resurfaced with cement and/or asphalt, at its expense. (Ord. 354, 2006)

14.08.300 Inspection of premises using water. Any person authorized by the city council shall have the right to enter any person’s premises upon which water is used for the purpose of inspecting the same. (Ord. 354, 2006)

14.08.310 Tampering with public hydrants. Hydrants erected on the streets, alleys, or avenues, of the city for fire purposes are hereby declared to be public hydrants, and it is unlawful for any person to tamper or interfere with same in any manner whatever, except the members of the fire department for the purpose of the department, and persons authorized specially by the city council. (Ord. 354, 2006)

14.08.900 Penalty for violation. The violation of any of the provisions of this chapter shall constitute a misdemeanor, and any person violating the same shall, upon conviction thereof by a court of competent jurisdiction, be subject to a fine not to exceed five hundred dollars for each such violation or imprisonment not to exceed thirty days for each such violation, or to both such fine and imprisonment. (Ord. 354, 2006)
Chapter 14.16

WATER TREATMENT PLANT

Sections:

14.16.010 Generally
14.16.020 Authorization to borrow for and construct water project (NAWS)

14.16.010 Generally. The municipal water treatment plant of the city heretofore authorized to be constructed shall be operated as a public utility of the city and the rates, charges, regulations and provisions of this chapter shall be and remain applicable thereto until duly amended, as provided in Section 14.16.020. The city reserves the right and power to amend this chapter from time to time as the need or propriety thereof arises and the rates and charges herein specified may thereby be increased or decreased; further, the city council is hereby specifically authorized and empowered to increase or decrease the rates and charges herein specified, for any one or more or all of the classes herein provided, including the water treatment surcharge set forth in Section 14.16.020, at any time or times and from time to time, by resolution of the city council duly passed and adopted by majority vote of the city council at any regular, adjourned or special meeting of the city council; provided, that the gross revenue derived from the plant shall at all times be maintained at a level such that together with the net revenues of the city waterworks system not heretofore pledged it shall be sufficient to retire the principal and interest of the bonds authorized to be issued for payment of the cost of constructing the plant as the same shall become due, and in addition maintain a one year's average reserve of principal and interest require-merits. (Ord. 354, 2006)

14.16.020 Authorization to borrow for and construct water project. Pursuant to various sections of the North Dakota Century Code, this ordinance grants authority to the City of Rugby pursuant to its Home Rule Charter, the authority to work in concert with the "North Dakota State Water Commission" to borrow funds with and through the North Dakota State Water commission and to construct a water project and improve the water treatment plant, said project being known as the "Rugby Component of NAWS. (Ord. 354, 2006)
Chapter 14.20

SEWER SYSTEMS

Sections:

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14.20.002 Biochemical oxygen demand.
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14.20.700 PENALTIES FOR VIOLATION
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14.20.000 Sewer Definitions

14.20.001 Generally

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as set forth in this article. (Ord. 254 Art. I (part) , 1979; Ord. 365; 2007)

14.20.002 Biochemical oxygen demand

Biochemical oxygen demand (BODV means the quantity or oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees
Centigrade, expressed in milligrams per liter. (Ord. 254 Art. I §1, 1979; Ord. 365; 2007)

14.20.003 Building drain
"Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall. (Ord. 254 Art. I §2, 1979; Ord. 365; 2007)

14.20.004 Building sewer
"Building sewer" means the extension from the building drain to the public sewer or other place of disposal, also called house connection. (Ord. 254 Art. I §3, 1979; Ord. 365; 2007)

14.20.005 Combined sewer
"Combined sewer" means a sewer intended to receive both wastewater and stormwater or surface water. (Ord. 254 Art. I §4, 1979; Ord. 365; 2007)

14.20.006 Easement
‘Easement’ means an acquired legal right for the specific use of land owned by others. (Ord. 254 Art. I §5, 1979; Ord. 365; 2007)

14.20.007 Floatable oil
"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. (Ord. 254 Art. I §6, 1979). ; Ord. 365; 2007)

14.20.008 Garbage
"Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods. (Ord. 254 Art. I §7, 1979). ; Ord. 365; 2007)

14.20.009 Hearing board
"Hearing board" means that board appointed according to the provisions of Article VII. (Ord. 254 Art. I §28, 1979). ; Ord. 365; 2007)

14.20.010 Industrial wastes
"Industrial wastes" means the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes. (Ord. 254 Art. I §8, 1979). ; Ord. 365; 2007)

14.20.011 May

14.20.012 Natural outlet
"Natural outlet" means any outlet, including storm sewers and combined sewer over flows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater. (Ord. 254 Art. I §9, 1979). ; Ord. 365; 2007)

14.20.013 Person
"Person" means any individual, firm, company, association, society, corporation, or group. (Ord. 254 Art. I §11, 1979). ; Ord. 365; 2007)

14.20.014 pH
"pH" means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration of the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^-7. (Ord. 254 Art. I §2, 1979). ; Ord. 365; 2007)

14.20.015 Properly shredded garbage
“Properly shredded garbage” means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewer, with no particle greater than one-half inch (1.27 centimeter) in any dimension. (Ord. 254 Art. I §13, 1979). ; Ord. 365; 2007

14.20.016   Public sewer
“Public sewer” means a common sewer controlled by a governmental agency or public utility. (Ord. 254 Art. I §14, 1979) ; Ord. 365; 2007

14.20.017   Sanitary sewer
“Sanitary sewer” means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of groundwater, storm water and surface waters that are not admitted intentionally. (Ord. 254 Art. I §15, 1979). ; Ord. 365; 2007

14.20.018   Sewage

14.20.019   Sewer
“Sewer” means a pipe or conduit that carries wastewater or drainage water. (Ord. 254 Art. I §17, 1979) ; Ord. 365; 2007

14.20.020   Shall
“Shall” is mandatory (see “may,” Section 14.20.110) . (Ord. 254 Art. I §18, 1979). ; Ord. 365; 2007

14.20.021   Slug
“Slug” means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen minutes more than five times the average twenty-four-hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works. (Ord. 254 Art. I §19, 1979). ; Ord. 365; 2007

14.20.022   Storm drain
“Storm drain” (sometimes termed “storm sewer”) means a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source. (Ord. 254 Art. I §20, 1979) ; Ord. 365; 2007

14.20.023   Superintendent
“Superintendent” means the superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the city or his authorized deputy, agent, or representative. (Ord. 254 Art. I §21, 1979). ; Ord. 365; 2007

14.20.024   Suspended solids
“Suspended solids” means total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater and referred to as nonfilterable residue. (Ord. 254 Art. I §22, 1979) ; Ord. 365; 2007

14.20.025   Unpolluted water
“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. (Ord. 254 Art. I §23, 1979). ; Ord. 365; 2007

14.20.026   Wastewater
“Wastewater” means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present. (Ord. 254 Art. I §24, 1979); Ord. 365; 2007)

14.20.027 Wastewater facilities
“Wastewater facilities” means the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent. (Ord. 254 Art. I §25, 1979); Ord. 365; 2007)

14.20.028 Wastewater treatment works
“Wastewater treatment works” means 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.” (Ord. 254 Art. I §26, 1979); Ord. 365; 2007)

14.20.029 Watercourse
“Watercourse” means a natural or artificial channel for the passage of water either continuously or intermittently. (Ord. 254 Art. I §27, 1979); Ord. 365; 2007)

14.20.100 Use of Public Sewer Required

14.20.101 Unsanitary deposit of wastes unlawful
It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste. (Ord. 254 Art. II §1, 1979); Ord. 365; 2007)

14.20.102 Discharge of sewage or polluted waters to natural outlet unlawful
It is unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. (Ord. 254 Art. II §2, 1979); Ord. 365; 2007)

14.20.103 Compliance required in construction of waste-water disposal facilities
Except as provided in this chapter, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater. (Ord. 254 Art. II §3, 1979); Ord. 365; 2007)

14.20.104 Installation and connection of toilet facilities required when
The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is 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 chapter and the ND State Plumbing Code, within sixty days after date of official notice to do so; provided, that said public sewer is within two hundred feet (sixty-one meters) of the property line. (Ord. 254 Art. II §4, 1979); Ord. 365; 2007)

14.20.200 Private Wastewater Disposal

14.20.201 Connection to approved private system required when public sewer not available
Where a public sanitary or combined sewer is not available under the provisions of Article II, Section 14.20.330, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of the ND State Plumbing Code. (Ord. 254 Art. III §1, 1979); Ord. 365; 2007)

14.20.202 Permit required—Application requirements
Before commencement of construction of a private wastewater disposal system the owner shall first obtain a written permit signed by the superintendent, along with a certificate from the local Health District. 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 as set by the City Council shall be paid to the city at the time the application is filed. (Ord. 254 Art. III §2, 1979). ; Ord. 365; 2007)

14.20.203 Permit--Effective after installation approved superintendent
A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent and local Health District. 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 forty-eight hours of the receipt of notice by the superintendent. (Ord. 254 Art. III §3, 1979). ; Ord. 365; 2007)

14.20.204 Compliance required
The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations and/or regulations of the North Dakota State Department of Health. No permit shall be issued for any private wastewater disposal system not meeting these conditions. No septic tank or cesspool shall be permitted to discharge to any natural outlet or to the ground surface. (Ord. 254 Art. III §4, 1979). ; Ord. 365; 2007)

14.20.205 Connection to public sewer required when
At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Article II, Section 14.20.330, a direct connection shall be made to the public sewer within sixty days in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material. (Ord. 254 Art. III §5, 1979). ; Ord. 365; 2007)

14.20.206 Operation and maintenance requirements
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 the North Dakota State Department of Health. (Ord. 254 Art. III §6, 1979). ; Ord. 365; 2007)

14.20.207 Article not to interfere with requirements imposed by health officer
No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the local health district. (Ord. 254 Art. III §7, 1979). ; Ord. 365; 2007)

14.20.300 Building Sewers, Connection and Excavations

14.20.301 Permit--Required to uncover, use, alter or disturb public sewer
No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent. (Ord. 254 Art. IV §1, 1979). ; Ord. 365; 2007)

14.20.302 Permit--Application requirements
There shall be two classes of building sewer permits: (I) for residential and commercial service, and (2) 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 as set by the City Council for a residential, commercial, or industrial building sewer permit shall be paid to the city at the time the application is filed. (Ord. 254 Art. IV §2, 1979). ; Ord. 365; 2007)
14.20.303  Owner responsibility for costs and city indemnification
All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Ord. 254 Art. IV §3, 1979); Ord. 365; 2007)

14.20.304  Separate and independent building sewers required—Exception
A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned. (Ord. 254 Art. IV §4, 1979); Ord. 365; 2007)

14.20.305  Old building sewers may be used when approved by superintendent
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 chapter. (Ord. 254 Art. IV §5, 1979); Ord. 365; 2007)

14.20.306  Conformance required in placement, methods and materials of sewers
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 ND State building and plumbing code or other applicable rules and regulations of the city. (Ord. 254 Art. IV §6, 1979); Ord. 365; 2007)

14.20.307  Building sewer elevation
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. (Ord. 254 Art. IV §7, 1979); Ord. 365; 2007)

14.20.308  Approval required for drainage of surface runoff or groundwater in public sanitary sewer
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. (Ord. 254 Art. IV §8, 1979); Ord. 365; 2007)

14.20.309  Connection—Requirements
The connection of a building sewer into the public sewer shall conform to the requirements of the ND State building and plumbing code or other applicable rules and regulations of the city. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation. (Ord. 254 Art. IV §9, 1979); Ord. 365; 2007)

14.20.310  Connection—Inspection
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. (Ord. 254 Art. IV §10, 1979); Ord. 365; 2007)

14.20.311  Excavation and restoration requirements.
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. (Ord. 254 Art.
IV §11, 1979). ; Ord. 365; 2007)

14.20.312 Barricades and lights for excavations.
No excavations shall be left open without barricades and warning lights at night. While the ground is frozen no excavations shall be made nearer than eight feet to any water pipe then in use. (1942 Rev. Ords. §14-213). ; Ord. 365; 2007)

14.20.313 Refilling excavations--Permit fee.

(1) No excavation shall be made in any street, avenue, alley or public way within the city by any person, firm or corporation without first obtaining a permit from the city auditor therefore. The fee for such permit shall be a minimum of one hundred dollars for each water excavation; and one hundred dollars for each other excavation of any kind whatsoever. Such fee shall be paid to the city auditor before the issuance of such permit and shall not be refundable in any case.

(2) Any excavation shall be refilled within two days after being opened, and shall be filled, settled and tamped, acceptable to the city water superintendent, to within six inches of the surface of such street or other public way, within such time. The city will thereupon cause the excavation to be resurfaced with cement and asphalt, at its expense; provided, however, that if the cost of resurfacing (or of refilling the excavation, if such becomes necessary) exceeds the sum of one hundred dollars the person, firm or corporation which made such excavation shall be liable for such excess cost; provided, further, that any and all water or sewer connections made in any such excavation, shall be inspected by the city water superintendent prior to the covering of the excavation.(Ord. 184 §1, 1971: Ord. 174 part). ; Ord. 365; 2007)

14.20.400 Use of Public Sewers

14.20.401 Approval required for discharging unpolluted waters
No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, 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. (Ord. 254 Art. V §1, 1979). ; Ord. 365; 2007)

14.20.402 Certain stormwater and unpolluted drainage to be discharged in designated sewers
Stormwater, other than that exempted under this section, 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. (Ord. 254 Art. V §2, 1979). ; Ord. 365; 2007)

14.20.403 Prohibited discharges designated
No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;

(2) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, 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 or have an adverse effect on the waters receiving any discharges from the treatment works;

(3) 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;

(4) 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. (Ord. 254 Art. V §3, 1979). ; Ord. 365; 2007)
14.20.404 Limitations on concentration or quantity of certain discharges
The following described substances, materials, waters, or waste shall be limited in discharges to municipal 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 or city engineer may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent or city engineer 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:

(1) Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (sixty-five degrees Celsius)
(2) Wastewater containing more than twenty-five milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin;
(3) Wastewater from industrial plants containing floatable oils, fat, or grease;
(4) Any garbage that has not been properly shredded (see Article 1, Section 14.20.150).
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;
(5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the superintendent for such materials;
(6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent;
(7) 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;
(8) Quantities of flow, concentrations, or both which constitute a slug, as defined in this chapter;
(9) 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;
(10) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes. (Ord. 254 Art. V §4, 1979); Ord. 365; 2007)

14.20.405 Discharge or proposed discharge of deleterious substances—Processing options
If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 14.20.550 of this article, 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:

(1) Reject the wastes;
(2) Require pretreatment to an acceptable condition for discharge to the public sewers;
(3) Require control over the quantities and rates of discharge; and/or
(4) Require payment to cover the added costs of handling and treating the wastes not covered by sewer charges under the provisions of Section 14.20.620 of this article.
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

14.20.406  Grease, oil and sand interceptor use and requirements
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 subsection (3) of Section 14.20.550, 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. (Ord. 254 Art. V §6, 1979). ; Ord. 365; 2007)

14.20.407  Pretreatment and flow equalizing facilities--Owner responsibility
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. (Ord. 254 Art. V §7, 1979). ; Ord. 365; 2007)

14.20.408  Structures for observation, sampling and measurement—Requirements
When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. (Ord. 254 Art. V §8, 1979). ; Ord. 365; 2007)

14.20.409  Designated user information may be required
The superintendent may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:
   (1) Wastewaters discharge peak rate and volume over a specified time period;
   (2) Chemical analyses of wastewaters;
   (3) Information on raw materials, processes, and products affecting wastewater volume and quality;
   (4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control;
   (5) A plot plan of sewers of the user’s property showing sewer and pretreatment facility location;
   (6) Details of wastewater pretreatment facilities;
   (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer. (Ord. 254 Art. V §9, 1979). ; Ord. 365; 2007)

14.20.410  Measurements, tests and analyses
All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter 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. (Ord. 254 Art. V §10, 1979). ; Ord. 365; 2007)

14.20.411  Special agreements or arrangements for treating industrial wastes
No statement contained in this article 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. (Ord. 254 Art. V §11, 1979). ; Ord.
14.20.500  Powers and Duties of Sewer Superintendent

14.20.501  Property entry
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 chapter. (Ord. 254 Art. VII §1, 1979). ; Ord. 365; 2007)

14.20.502  Information collection
The superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which 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. (Ord. 254 Art. VII §2, 1979) ; Ord. 365; 2007)

14.20.503  Safety rule observation--Indemnification of company
While performing the necessary work on private properties referred to in this section, 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 Article V, Section 14.24.080. (Ord. 254 Art. VII §3, 1979). ; Ord. 365; 2007)

14.20.504  Easement entry and work
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 an easement, 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. (Ord. 254 Art. VII §4, 1979). ; Ord. 365; 2007)

14.20.600  Hearing Board

14.20.601  Purpose
A hearing board, consisting of three 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 chapter by the superintendent. (Ord. 254 Art. VIII §1, 1979) ; Ord. 365; 2007)

14.20.602  Membership
One member of the board shall be selected to represent the city, one member shall be selected to represent the sewer user involved in the arbitration, and the third member shall be acceptable to both parties and shall serve as the chairman in the arbitration. (Ord. 254 Art. VIII §2, 1979). ; Ord. 365; 2007)

14.20.700  Penalties for Violation

14.20.701  Willful or negligent damage or tampering 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. (Ord. 254 Art. VI §1, 1979). ; Ord. 365; 2007)
14.20.702  Notification of violation
Any person found to be violating any provision of this chapter 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. (Ord. 254 Art. IX §1, 1979). ; Ord. 365; 2007)

14.20.703  Continued violation—Penalty
Any person who continues any violation beyond the time limit provided for in this chapter, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount of not less than $20.00, nor more than $1,000.00 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. (Ord. 254 Art. IX §2, 1979). ; Ord. 365; 2007)

14.20.704  Liability of violator to city
Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation. (Ord. 254 Art. IX §3, 1979); Ord. 365; 2007)
Chapter 14.28

WASTEWATER SYSTEM SERVICE CHARGES

Sections:

14.28.010 Purpose
The purpose of this chapter 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) 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. (Ord. 255 §1, 1979); Ord. 365; 2007)

14.28.020 Determination of total annual cost of operation and maintenance of wastewater system
The city, 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 were 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. (Ord. 255 §2, 1979); Ord. 365; 2007)

14.28.030 Determination of user’s wastewater volume contribution percentage
The city, or its city engineer, shall determine 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 each user’s volume contribution percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow.

Each user’s volume contribution percentage shall be multiplied by the annual operation and maintenance costs for the wastewater system. (Ord. 255 §3, 1979); Ord. 365; 2007)

14.28.040 Surcharge system and rate schedule for above normal volume or strength
The city will assess a surcharge rate for all nonresidential users discharging wastes with volume and BOD strengths greater than the average residential user. Such users will be assessed a surcharge, sufficient to cover the costs of treating such users above normal strength wastes and/or volume. Normal strength wastes are considered to be two hundred mg/l BOD.

(1) Surcharge rate schedule for above - normal volume of wastes
Residential users are considered to be one class of user and are levied a charge on a monthly basis as set by the City Council. Nonresidential users with flows no greater than the average residential user’s flow of 4,000 gallons per month and with BOD no greater than the average residential user’s strength will be levied the same charge on a monthly basis as set by the City Council as the average residential user.

Nonresidential users with volumes greater than the average residential user will pay an additional
charge on a monthly basis as set by the City Council for all water usage greater than the average residential user’s flow.

(2) Surcharge rate schedule for above-normal strength:
Any nonresidential user with BOD greater than the average residential user’s strength will pay an additional charge on a monthly basis as set by the City Council for BOD loading greater than two hundred mg/l BOD. The additional charge will be sufficient to cover the costs of treating such users above normal strength wastes.

(3) Surcharge for total suspended solids (TSS)
If contributories, now or in the future, discharge TSS that may influence the operation and maintenance (O & M) costs of the wastewater treatment facilities, the city council shall enact a surcharge to cover the additional O & M costs attributable to these TSS as a modification to this chapter. (Ord. 262 §4, 1980: Ord. 255 §4, 1979; Ord. 365; 2007)

14.28.050 Wastewater service charge determination
Each nonresidential user’s wastewater cost contributions as determined in Sections 14.24.030 and 14.24.040 shall be added together to determine such user’s annual wastewater service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined for each such user based upon an estimate of the total wastewater contribution of this class of user. The governing body may classify industrial, commercial and other nonresidential 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 and five-day twenty degree Centigrade Biochemical Oxygen Demand. Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule which can be found on file in the office of the city auditor. Each user will be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user's charges which are attributable to wastewater treatment charges. (Ord. 262 §5, 1980; Ord. 255 §5, 1979; Ord. 365; 2007)

14.28.060 Billing procedure and late payment penalty
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 as set by the City Council if the payment is not received by the city within thirty days. Should any user fail to pay the user wastewater service charge and penalty within two months of the due date, the city may stop the wastewater service to the property. (Ord. 255 §6, 1979). Ord. 365; 2007

14.28.070 Annual review of costs and user charges
The city shall review the total annual cost of operation and maintenance as well as each user's wastewater contribution percentages on an annual basis and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater system. If a significant user, such as an industry, has completed inplant modifications which would change that user’s wastewater contribution percentages, the user can present at a regularly scheduled meeting of the governing body such factual information and the city shall then 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. (Ord. 255 §7, 1979). Ord. 365; 2007

14.28.080 Discharge of toxic, poisonous or hazardous substances prohibited
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 waste-water treatment plant is prohibited. (Ord. 255 §8, 1979). Ord. 365; 2007
For state law as to fire prevention, see N.D.C.C. §40-05-01(34) (35) (36) (37).

Chapters:

16.04 Fire Department
16.08 Fire Hazards
16.12 Flammable Liquids
Chapter 16.04

FIRE DEPARTMENT

Sections:

16.04.010  Organization.
16.04.020  Council fire department committee chairman.
16.04.030  Executive board.
16.04.040  Election of officers.
16.04.050  List of members and vacancies.
16.04.060  Duties of the chief.
16.04.070  Suspension of members.
16.04.080  Training program.
16.04.090  Assistant chief duties.
16.04.100  Duties of the members.
16.04.110  Police power.
16.04.120  Officers leaving the city.
16.04.130  Apparatus.

16.04.010  Organization.
    (a) The Rugby fire department shall consist of thirty-six men.
    (b) There is hereby established a board of officers, called the executives board, consisting of the fire chief, assistant fire chief, secretary-treasurer, the City Council Public Safety Committee Chairman, And officers appointed by the Fire Chief including training officers and safety officer. (c) The fire chief shall be the presiding officer of the fire department, and of the executive board, and shall have the power to call a meeting of the fire department and/or the executive board whenever he shall deem it necessary; or upon the request of two members thereof. (Ord. 385, 2014; Ord. 208, 1974; Ord. 123 (part), 1964)

16.04.020  Council Public Safety committee chairman. The chairman of the council Public Safety Committee shall act as liaison officer between the city council and the Rugby fire department. All fire department requests must go through the Public Safety Committee Chairman. (Ord. 385, 2014; Ord. 123 (part), 1964).

16.04.030  Executive board. The executive board shall approve a current set of by—laws for acceptance by the department membership, relative to the rules and regulations of the governing of the Rugby fire department, and not inconsistent with the ordinances of the city. (Ord. 385, 2014; Ord. 123 (part), 1964).

16.04.040  Election of officers.
    (a) The fire department shall, through the nominating committee appointed under the approved by—laws of the department, select candidates for each of the elected offices and present these names to the membership for consideration during the annual meeting. The nominating committee for the department shall consist of three individuals with the highest seniority. Upon nomination by the committee, the membership will vote for the offices of Fire Chief, Assistant Fire Chief, and Secretary-Treasurer.
    (b) The Assistant Fire Chief cannot hold that office for no more than five consecutive years. (Ord. 385, 2014; Ord. 132 (part), 1966; Ord. 123 (part), 1964).

16.04.050  List of members and vacancies.
    (a) The fire department secretary-treasurer shall give a financial report of the department's income, expenses and balance of the year, at the April meeting of the following year.
    (b) The fire department secretary-treasurer shall present to the city council at its last meeting in December annually, a list of all active members of the Rugby fire department, for filing by the council.
(c) Vacancies which occur in the fire department because of retirement, death, suspension or resignation shall be filled by election. Such election may be held on the date of the first regular meeting of the fire department, but as soon as is practicable.

(d) A name, or names, may be placed in nomination, and each person nominated must be a legal resident of the city or work within city limits as directed in the fire department by-laws. Each applicant shall be screened by a committee composed of the fire chief, the assistant fire chief and one lieutenant appointed by the fire chief. If approved and passed by this committee the name or names will be submitted to the membership at a regular meeting of the department. An election shall then be held and any nominee receiving a two-thirds vote for acceptance into the Rugby fire department shall be elected to membership therein. After selection by the above process the elected person shall have his name submitted to the city council and mayor to be filed for record.

(e) The retirement age of any fireman shall be sixty-five years of age. Upon coming of retirement age, the fireman shall automatically be deemed a life member of the Rugby Fire Department, and retired there from as an active fireman. (Ord. 385, 2014; Ord. 180 §1, 1971; Ord. 167 (part), 1969: Ord. 123 (part) , 1964).

16.04.060 Duties of the chief.

(a) It shall be the duty of the chief to examine into the condition of all property of the department, and report the same to the city council semi-annually, or more often if he sees fit.

(b) It shall be his duty to promulgate all orders of the mayor and the city council; and it shall be the duty of the subordinate officers and fireman to respect and obey the chief, or whomever may act as such legally. (Ord. 385, 2014; Ord. 123 (part) , 1964).

16.04.070 Suspension of members.

(a) The chief shall have the power, at any time, to suspend any member of the fire department for incapacity, misconduct or neglect of duty, until such time as the department can hear the cause and try the member for the same.

(b) Such notice shall be given to the accused member to meet with the department elected officers where such charges can be aired and a decision made.

(c) Upon hearing the evidence, a majority of the elected officers, by vote, may remove the member if found guilty as charged; or reinstate him if found not guilty. (Ord. 385, 2014; Ord. 123 (part) , 1964).

16.04.080 Training program. The chief shall be responsible for a training program for the membership of the department. This program shall consist of:

1. All members shall become familiar with, and able to operate, all pieces of fire equipment in the department.

2. This program shall keep the membership informed and trained in regards to modern and up-to-date firefighting techniques.

3. The chief shall report the progress of the program to the mayor and city council as requested. (Ord. 385, 2014; Ord. 123(part), 1964).

16.04.090 Assistant chief duties. (a) It shall be the duty of the assistant fire chief to assist the chief in all his duties at the fires and in the training program.

(b) In the absence of the chief, he shall be in command. In the absence of both the chief and assistant chief, at a fire, the first officer arriving shall take command. (Ord. 385, 2014; Ord. 123 (part) , 1964).

16.04.100 Duties of the members.

(a) The duties of the respective members shall be to take care of the fire apparatus, and obey all orders given them by their respective officers.

(b) Upon the alarm of fire, to report to the fire station and, with the apparatus, proceed immediately to the site of the fire, and work and manage the same apparatus under the directions of the officers in command.

(c) No member shall leave any fire, or remove any apparatus there from, without permission or order of the officer in command; and when the order is given by the commanding officer,
they shall return the fire apparatus, well cleaned and in good order, to the proper place. (Ord. 385, 2014; Ord. 123 (part), 1964).

16.04.110 Police power. The fire department shall have police power:
(1) During a fire;
(2) When responding to or returning from an alarm of a fire;
(3) For the purpose of procuring supplies of water;
(4) For preventing the fire hose from being driven over;
(5) For keeping idle and suspicious persons away from the vicinity of the fire;
(6) For preserving and protecting property from loss, damage or theft. (Ord. 385, 2014; Ord. 123 (part), 1964).

16.04.120 Officers leaving the city.
(a) In case of absenteeism from the city, the next officer in command shall be notified so that at all times there is an officer present. (Ord. 385, 2014; Ord. 123 (part), 1964).

16.04.130 Apparatus.
(a) No apparatus of the Rugby fire department shall be taken outside of the city, with the exception of protecting municipal property outside of the confines of the city.
(b) Private use: No person shall use any fire equipment for any private purpose, nor shall, without the authority from the fire department committee of the council, remove same from place of storage; and no person having charge of any fire apparatus shall permit the same to be used for private purposes.
(c) Care: The fire department shall have charge and custody of such property of the fire department as may be delivered to them, and shall cause all such fire apparatus to be kept and preserved in the best order for its immediate use, subject to the order of the chief.
(d) Procuring and repair: The city council, from time to time, may procure the necessary fire apparatus for the use of the fire department, and shall provide a convenient place to the keeping thereof. Such an apparatus shall be kept in the best order for immediate use by the persons shall, without delay, notify the chairman of the city council Public Safety committee, who shall immediately cause all necessary repairs to be made. (Ord. 385, 2014; Ord. 123 (part), 1964).
Chapter 16.08

FIRE HAZARDS

2. For state law authorizing the abatement of fire hazards, see N.D.C.C. §40-05-01(35).
   See also N.D.C.C. §40-05-02(24).

Sections:

16.08.010 Burning shavings. No person shall set any fire or burn any shavings or any other combustible material in any open or public place within fifty feet of any building or property likely to be injured thereby within the corporate limits of the city, unless such paper, shavings, or other combustible material is set on fire or burned in containers or incinerators so constructed so as to prevent the fire from spreading and injuring buildings or property. (Ord. 385, 2014; 1942 Rev. Ords. §7-301).

16.08.020 Disposition of ashes. No person shall keep or dispose of any ashes in any building or in any place within twenty feet of any building, shed, fence, or any other combustible material within the corporate limits unless in a secure and covered metal or earthenware ash house without wood in any part thereof unless made fireproof. (1942 Rev. Ords. §7-302).

16.08.030 Burning out flues and chimneys. No person shall burn out any flue or chimney except in the daytime and when it is raining or the roof of the building is covered with snow; and any person or persons using any chimney or flue shall cause the same to be cleaned out at least once a year and as often as it is necessary to prevent dangerous condition of such chimney or flue. Any person violating the provisions of this section shall, upon conviction, be subject to the penalty as provided in Section 1-01.110. (1942 Rev. Ords. S7—303).

16.08.040 Chimneys. All chimneys shall be built of brick, concrete, stone, hollow tile of clay or concrete, concrete block, or of reinforced concrete, not less than eight inches thick; provided that for stone masonry other than sawed or dressed stone in courses, properly bonded and tied with metal anchors, the thickness shall be not less than twelve inches; and provided that in dwellings, brick or solid concrete chimneys used exclusively for ordinary stoves, ranges, furnaces, or open fireplaces, the thickness of the masonry may be reduced to not less than three and three-quarter inches.

Every such chimney shall be lined with a flue lining. High pressure steam boilers, incinerators exceeding nine square feet grate area or of fuel fired type and other moderate heat appliances shall have a lining of four inches of fire brick for a distance of at least twenty-five feet about the flue entrance.

Chimneys shall extend at least three feet above the highest point at which they come in contact with a roof of a building and at least two feet higher than any ridge within ten feet of such chimney. They shall be properly capped.

Chimneys shall be built upon concrete or solid masonry foundations, and the footing for an exterior
chimney shall start below the frost line.

The back and sides of fireplaces hereafter erected shall be of approved masonry or reinforced concrete, not less than eight inches in thickness. A lining of firebrick or other approved material at least two inches thick shall be provided unless the thickness is twelve inches.

Fireplaces, except when designed and used for approved gas appliances only, shall have hearths of brick, stone, tile, or other approved incombustible material supported on masonry arches. Such hearths shall extend at least twenty inches outside of the chimney breast and not less than twelve inches beyond each side of the fireplace opening along the chimney breast. The combined thickness of hearth and supporting arch shall be not less than six inches at any point.

Wooden centers used in the construction of that part of the supporting arch which is below the hearth of the fireplace inside of the chimney breast, shall be removed when the construction of the arch is completed and before plastering on the underside.

Metal smokestacks may be permitted for boilers, furnaces, and similar apparatus where large hot fires are used, provided that every such stack, or part thereof, hereafter erected within a building other than a one story building, shall be enclosed above the story in which the appliance served thereby is located, in walls of approved masonry or a partition construction of incombustible materials having a fire resistance rating of not less than two hours, with a space on all sides between the stack and the enclosing walls sufficient to render the entire stack accessible for examination and repair. The enclosing walls shall be without openings, except doorways equipped with approved self closing fire doors at various floor levels for inspection purposes. Where such a stack passes through a roof constructed of combustible materials, it shall be guarded by a galvanized iron ventilating thimble extending not less than nine inches below and nine inches above such roof construction. Such thimbles shall be of a size to provide a clearance on all sides of the stack of not less than eighteen inches; provided that for stacks of low heat appliances may be reduced to not less than twelve inches. (1942 Rev. Ords. §7-304).

16.08.050 Burning pitch, tar and rosin. No person shall burn any pitch, rosin, or tar or other inflammable liquid or substance except within a fireproof building or in some open place at least thirty feet distant from any building or other property likely to be injured thereby. (1942 Rev. Ords. §7-305).

16.08.060 Strewing rubbish, stacking hay, straw. No person shall strew any rubbish nor leave any straw, shavings, or other combustible material around or near any building within the corporate limits of the city so as to endanger or damage the same through fire, nor stack nor cause to be stacked any hay, straw, or cover or cause to be covered any barn, stable, shed, or other building with hay, straw, or manure, within the corporate limits, unless securely covered with a roof and surrounded with a wall, not to bank up any building within the city limits with hay or straw unless the banking shall be covered with at least four inches of earth. Provided, that in the spring of the year as soon as the condition of the weather reasonably permits any person or persons owning or occupying any house or other building within the city limits banked with straw, hay, manure, or other inflammable material, shall remove the same, and it shall be the duty of the chief of police to see that such bankings are removed as herein provided.

16.08.070 Smoking prohibited. Smoking or the carrying of matches or other smoking material in rooms where flammable liquids are handled is prohibited. Suitable “NO SMOKING” signs shall be displayed. (1942 Rev. Ords. §7-308).

16.08.080 Chief of police authorized to enter buildings. The chief of police is hereby authorized to enter any store or building during the reasonable hours of the daytime to ascertain all violations of this chapter and report the same to the council. (1942 Rev. Ords. §7-309).

16.08.090 Use of Fire Pits. A fire pit will include commercially-sold units and privately-built units. All fires allowed by this ordinance must not be left unattended for extended periods of time. The purpose
of the fire pit will be for recreational purposes only and not for the burning of yard waste, garden waste, or refuse. (2011, Rev. Ords 379)

16.08.100 Penalty for violation. Any person or persons violating the provisions of this chapter shall, upon conviction, be subject to the penalty as defined in Section 1.01.110, and shall be liable for all damages caused to persons or property by reason of such unlawful act. (1942 Rev. Ords. §7-310).
Chapter 16.12

FLAMMABLE LIQUIDS

3. For state law empowering a city to regulate and prohibit the storage of combustible or explosive material, see N.D.C.C. §40-05-01(38).

Sections:

16.12.010 Application to new and existing installations.  This chapter shall apply to all new plants, equipments and installations at any place ordinarily known as gasoline or oil bulk plant and also to any places of business having aboveground storage for the receipt of tank car or transport quantities of flammable liquids; and, except Sections 16.12.170 --16.12.190 and 16.12.230--16.12.240 to existing plants, equipments, and installations at such places which may constitute a distinct hazard to adjoining property, insofar as the intent of the sections can be reasonably fulfilled. (Ord. 33 §1, 1948).

16.12.020 Classification.  For the purpose of this chapter, flammable liquids are divided into three classes, according to the flash point, as follows:
Class I. Liquids with flash point below twenty-five degrees Fahrenheit (minus four degrees Centigrade) closed cup tester.

Class II. Liquids with flash point above that for Class I and below seventy degrees Fahrenheit (twenty-one degrees Centigrade) closed cup tester.

Class III. Liquids with flash point above that for Class II and below two hundred degrees Fahrenheit (ninety-three and one-third degrees Centigrade) closed cup tester.

The flash point shall be as determined with the Elliot, Abel, Abel-Pensky, or the Tag closed cup testers, but the Tag closed cup tester (standardized by the United States Bureau of Standards) shall be authoritative in case of dispute. All tests shall be made in accordance with the methods adopted by the American Society for Testing Materials and approved by the American Standards Association.

Representative examples of the classes of flammable liquids are:

<table>
<thead>
<tr>
<th>Class I</th>
<th>Class II</th>
<th>Class III</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gasoline</td>
<td>Alcohol</td>
<td>Kerosene</td>
</tr>
<tr>
<td>Naphtha</td>
<td>Fuel</td>
<td>Oil</td>
</tr>
<tr>
<td>Benzol</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Ord. 33 §2, 1948).

16.12.030 Container defined. A container shall be any can, bucket, barrel, tank or other vessel, except stationary or fixed tanks, tank wagons and tank cars, in which flammable liquids or mixtures are stored or kept. (Ord. 33 §3, 1948).

16.12.040 Permit is written authority. A permit is the written authority of the city council acting through the fire chief of the city issued pursuant to this chapter, for the storage, sale or use of any product covered by this chapter. (Ord. 33 §4, 1948).

16.12.050 Approval defined. An approval is a written statement issued by the chief of the fire department, certifying that the type, class or kind of article or thing mentioned therein has been examined and approved by the chief of the fire department in conformity with this chapter, and that it is authorized to be stored, sold or used in the city. (Ord. 33 §4, 1948).

16.12.060 Chief of fire department defined. "Chief of the Fire Department" includes any officer, member or inspector of the fire department specially deputized by the chief of the fire department to act for him. (Ord. 33 §6, 1948).

16.12.070 Permits required. A permit shall be obtained:

1. For all existing bulk plants and bulk storage facilities.
2. For the installation or erection of all new bulk plant and storage facilities.
3. For the installation and erection of all additional storage facilities.
4. For all new or additional installations of pumping or unloading equipment and for all electrical or electrically operated equipment.
5. For placement of and installation of all new or additional storage tanks for residential homes or other buildings located within the city limits. (Ord. 227 (part), 1976; Ord. 33 §7, 1948).

16.12.080 Application and inspection. All applications for permits shall be made in writing to the city council. The chief of the fire department shall forthwith make an inspection of the premises and of the proposed installation, and if the conditions, surroundings, and arrangements are in his opinion such that the intent of this chapter can be observed, then he shall make a report of his findings to the city council, and if approved by such city council, a permit shall be issued. All applications for permits shall be accompanied by a fee in the amount of five dollars for the permits required under Section
16.12.090   Chief of fire department orders and modifications. The chief of the fire department, when directed by the city council, shall have power to order, by written notice delivered to the owner or occupant of any premises where flammable liquids are stored or handles within the purview of this chapter, the correction or elimination of any condition which is in violation of any of the provisions of this chapter. The chief of the fire department shall, when directed so to do by the city, also have power to modify any of the provisions of this chapter or any notice, order or decision issued hereunder upon application in writing by the owner or occupant of any such premises or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of this chapter, provided that the spirit of this chapter shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the city council upon any application therefore shall be entered upon the records of the city and a signed copy shall be furnished the applicant. (Ord. 33 §9, 1948).

16.12.100   Appeals. Within thirty days after the receipt of any notice, order, or decision issued under the provisions of this chapter, any person affected thereby shall upon application to the city council be given a hearing upon such notice, order, or decision at which such person may show cause why such notice, order or decision should not be enforced in whole or in part. Any action of the city council under the provisions of this chapter shall be subject to review by the district court of this state in and for the county in which the subject matter thereof is located upon the filing of an application therefore with the clerk of the court and the service upon the city council of a notice of the filing of such application within thirty days after such action is taken or within thirty days after the issuance and service of any such notice, order or decision pertaining thereto. (Ord. 33 §10, 1948).

16.12.110   Extinguishers required. Where flammable liquids are kept, used, or handled, a quantity of loose noncombustible absorbents, such as dry sand or ashes, together with pails or scoops shall be provided in such quantities as may be directed by the chief of the fire department under the direction of the city council. (Ord. 33 §11, 1948).

16.12.120   Storage of barrels and drums limited. Within the limits given in Section 16.12.160, barrels and drums containing Class I or II liquids stored outside any building shall not be piled upon each other nor stored in a passageway or beneath any window and no open lights shall be permitted in any such storage yard. (Ord. 33 §12, 1948).

16.12.130   Drums and barrels must be kept closed. Drums or barrels for flammable liquids shall have caps, plugs and bungs replaced immediately after package is emptied. (Ord. 33 §13, 1948).

16.12.140   Lighting shall be by electricity. Flammable liquids shall not be drawn nor handled in the presence of open flame or fire, but may be drawn and handled when lighting is by incandescent electric lamps installed in compliance with the “National Electrical Code”. (Ord. 33 §14, 1948).

16.12.150   Drawing prohibited near open light. No flammable liquid shall be handled or stored near any open flame or fire. (Ord. 33 §15, 1948).

16.12.160   Storage must be outside buildings. Except as otherwise permitted in this chapter, the storage of flammable liquids shall be outside buildings, in underground tanks or aboveground tanks; except that the storage in tanks aboveground or outside buildings is prohibited within the following limits: (NOTE: These limits to be specified; they should include the mercantile and other congested districts and land near streams or other waterways which would carry burning liquid into congested districts) Provided that for existing tanks within such limits, which are safeguarded as specified in this chapter, a permit shall be granted. (Ord. 33 §16, 1948).

16.12.170   Underground storage limited. Tanks buried underground shall have the top of the tank not less than two feet below the surface of the ground, and below the level of any piping to which the tanks may be connected, except that, in lieu of the two foot cover, tanks may be buried under twelve
inches of earth and a cover of reinforced concrete at least six inches in thickness provided, which shall extend at least one foot beyond the outline of tank in all directions; concrete cover to be placed on a firm, well tamped earth foundation. Where necessary to prevent floating, tanks shall be securely anchored or weighted.

Where tanks are buried under driveways subject to traffic by heavy vehicles, the total coverage above the top of the tank shall be not less than three feet; provided, however, that where such driveways are paved with concrete not less than six inches in thickness, the total coverage may be reduced to two feet.

Where a tank cannot be entirely buried, it shall be covered over with earth to a depth of at least two feet with a slope on all sides not steeper than one and one-half feet horizontal to one foot vertical. The limit of storage permitted shall depend upon the location of tank with respect to adjacent buildings, as follows:

MAXIMUM CAPACITY OF TANKS FOR UNDERGROUND STORAGE

<table>
<thead>
<tr>
<th>Location</th>
<th>Maximum Allowable Storage</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the top of the tank is above the lowest floor, basement, cellar or part of any building which is:</td>
<td>Class 1,11, and III. Under 100° Fahrenheit Flash Point.</td>
</tr>
<tr>
<td>(1) Less than 10 feet away</td>
<td>550 gallons</td>
</tr>
<tr>
<td>(2) 10 feet to 20 feet away</td>
<td>2,000 gallons</td>
</tr>
<tr>
<td>(3) 20 feet to 25 feet away</td>
<td>5,000 gallons</td>
</tr>
<tr>
<td>(4) 25 feet to 30 feet away</td>
<td>15,000 gallons</td>
</tr>
<tr>
<td>(5) 30 feet to 40 feet away</td>
<td>20,000 gallons</td>
</tr>
<tr>
<td>(6) 40 feet to 50 feet away</td>
<td>50,000 gallons</td>
</tr>
<tr>
<td>(7) More than 50 feet away</td>
<td>Unlimited</td>
</tr>
</tbody>
</table>

(8) Tank located beneath a building shall be below all portions of that building and is limited in capacity only in respect to other buildings as given above under I to 7.
(9) A tolerance of ten percent in capacity shall be allowed in tanks of one hundred fifty thousand gallons or less capacity. (Ord. 33 §17, 1948).


(a) In case of tanks for the bulk storage of Class I, II, and III liquids the distance from the line of adjoining property which may be built upon shall in no case be less than set forth in Table I nor less than double these distances in the case of tanks for the storage of crude petroleum. In particular installations these distances may be increased at the discretion of the authority having jurisdiction, but only after a hearing of which notice shall be given to the owner and occupant of premises to be subjected to such increases, if it fairly appears after consideration of the special features such as topographical conditions, nature of occupancy and proximity to buildings on adjoining property and height and character of construction of such buildings, capacity and construction of proposed tanks and character of liquids to be stored, degree of private fire protection to be provided, and facilities of the fire department to cope with oil fires, and from the evidence presented at such hearing that such increased distances are necessary in the interest of public safety.
TABLE 1—MINIMUM DISTANCE OF OUTSIDE ABOVEGROUND TANKS FOR CLASS I, II AND III LIQUIDS OTHER THAN CRUDE PETROLEUM TO LINE OF ADJOINING PROPERTY WHICH MAY BE BUILT NOW.

<table>
<thead>
<tr>
<th>Capacity of Tank, Gallons</th>
<th>Minimum Distance to Line of Adjoining Property which may be Built Upon.</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 12,000</td>
<td>10 feet</td>
</tr>
<tr>
<td>12,000 to 24,000</td>
<td>15 feet</td>
</tr>
<tr>
<td>24,001 to 30,000</td>
<td>20 feet</td>
</tr>
<tr>
<td>30,001 to 50,000</td>
<td>25 feet</td>
</tr>
</tbody>
</table>

(b) The location of any tank exceeding fifty thousand gallon capacity with respect to distance from the line of adjoining property which may be built upon shall depend upon the construction, contents, equipment and greatest dimension (diameter, length, or height) of the tank and shall be in accord with the following provisions:

**Group A Tanks.** Any tank constructed in compliance with these or equivalent standards and equipped with (1) an approved permanently attached extinguishing system or (2) an approved floating roof, which is to be used only for the storage of refined petroleum products or other flammable liquids not subject to boil over, shall be so located that the distance from the line of adjoining property which may be built upon shall not be less than twice the greatest dimension (diameter, length or height) of the tank, except that such distance need not exceed one hundred twenty feet.

**Group B Tanks.** Any tank constructed in compliance with these or equivalent standards but not equipped either with (1) an approved permanently attached extinguishing system or (2) an approved floating roof, which is to be used only for the storage of refined petroleum products or other flammable liquids not subject to boil over, shall be located so that the distance from the line of adjoining property which may be built upon shall be not less than one and one-half times the greatest dimension (diameter, length, or height) of the tank, except that such distance need not exceed one hundred seventy-five feet.

**Group C Tanks.** Any tank constructed in compliance with or equivalent standards and equipped either with (1) an approved permanently attached extinguishing system or (2) an approved floating roof, which is to be used for the storage of crude petroleum or other flammable liquid subject to boil over, shall be so located that the distance from the line of adjoining property which may be built upon shall be not less than twice the greatest dimension (diameter, length, or height) of the tank, except that such distance need not exceed one hundred seventy-five feet.

**Group D Tanks.** Any tank constructed in compliance with or equivalent standards and not equipped with either (1) an approved permanently attached extinguishing system or (2) an approved floating roof, which is to be used for the storage of crude petroleum or other flammable liquid subject to boil over, shall be so located that the distance from the line of adjoining property which may be built upon shall be not less than three times the greatest dimension (diameter, length or height) of the tank, except that such distance need not exceed three hundred fifty feet,

(c) The minimum distance between shells of any two tanks shall be not less than one-half of the greatest dimension (diameter, length or height) of smaller tank except that such distance shall be not less than three feet and for tanks of eighteen thousand gallons or less the distance need not exceed three feet.

NOTE: The term “approved permanently attached extinguishing system” as used in the foregoing description may be interpreted to apply to a fixed foam or other recognized extinguishing system embodying a supply of the extinguishing medium, or a system employing a pipe line for conveying foam from a point outside the dike to the tank, subject to the approval of the enforcing authority. Where reliance is placed upon such a pipe for conveying foam, the pipe line should be so
installed and attached as to be an integral part of the tank. Approved portable foam generating equipment of sufficient capacity should be available on the property, by response of a municipal fire department or otherwise readily available, and there should be on hand or readily available a sufficient supply of foam producing materials as specified in the N.F.P.A. Standards for Foam Extinguishing Systems. (Ord. 33 §18, 1948).

16.12.190 Truck loading rack. At marketing stations and elsewhere, truck loading racks shall be separated from tanks, warehouses and other plant buildings by a clear distance of not less than twenty-five feet. (Ord. 33 §18A, 1948).

16.12.200 Openings in aboveground tanks. Each above-ground tank over one hundred gallons in capacity shall have vent openings equipped with approved Pressure and Vacuum Relief Valves or with noncorrodible wire screens (preferably forty by forty mesh but not less than thirty by thirty mesh or its equivalent) so attached as to completely cover the openings. The screens on openings may be made removable, but shall be kept normally firmly attached. (Ord. 33 §19, 1948).

16.12.210 Emergency relief of excessive internal pressure. Every aboveground tank used for the storage of Class I, II or III liquids shall be equipped with an adequate emergency relief valve or valves for preventing the development of excessive internal pressure in case of exposure fire surrounding the tank.

NOTE: The following gives information on the size of free circular openings for emergency relief under varying conditions.

EMERGENCY RELIEF EXCESSIVE INTERNAL PRESSURE IN ABOVEGROUND TANKS

<table>
<thead>
<tr>
<th>Minimum Emergency Relief Capacity Required</th>
<th>Approximate diameter of free circular opening (unobstructed by valve discs, etc.) required to discharge petroleum vapors at the given rates for the following allowable internal pressures.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capacity of Tank Gallons</td>
<td>Cubic Feet Per Hour</td>
</tr>
<tr>
<td>------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>1,000</td>
<td>16,000</td>
</tr>
<tr>
<td>4,000</td>
<td>44,000</td>
</tr>
<tr>
<td>18,000</td>
<td>88,000</td>
</tr>
<tr>
<td>25,000</td>
<td>105,000</td>
</tr>
<tr>
<td>56,000</td>
<td>160,000</td>
</tr>
<tr>
<td>100,000</td>
<td>230,000</td>
</tr>
<tr>
<td>155,000</td>
<td>290,000</td>
</tr>
<tr>
<td>222,000</td>
<td>330,000</td>
</tr>
</tbody>
</table>
Three inches of water is probably the maximum pressure that should be placed on the ordinary type of cone roof on vertical steel tanks, while one pound per square inch is probable conservate for the pressure to be allowed in the ordinary type of horizontal tanks. Five pounds per square inch venting pressure is permissible on horizontal tanks meeting the construction and test requirements called for in Section 16.12.240. Many storage tanks have been constructed as pressure vessels and can be vented safely at pressures above five pounds per square inch and still maintain a very high factor of safety.

An emergency relief capacity of four hundred ten thousand cubic feet per hour is the maximum required for any tank regardless of size. This is based upon the fact that tanks having a capacity in excess of seven hundred thirty-five thousand gallons require so long a time to heat up the contents to a temperature where rapid ebullition starts (something over three hours with ordinary gasoline and much longer for heavier oils) that it is extremely unlikely that this point would ever be reached, and even if it should be, there would be ample time to take the necessary precaution of safeguarding life and property. (Ord. 33 §19A, 1948).

16.12.220 Aboveground tanks labeled. Aboveground tanks for Class I and II liquids shall have painted conspicuously upon their sides in letters at least two inches high, the wording, "FLAMMABLE--KEEP FIRE AWAY". (Ord. 33 §20, 1948).

16.12.230 Material and construction of underground tanks. Tanks shall be constructed of galvanized steel, of open hearth steel or of wrought iron of a thickness not less than that specified in Table 3. For liquids heavier than thirty-five degrees A.P.K., tanks may be constructed of concrete in accordance with the Standards of the National Fire Protection Association.

<table>
<thead>
<tr>
<th>Capacity (Gallons)</th>
<th>Minimum Thickness of Material</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Guage (W.S. Standard)</td>
</tr>
<tr>
<td>1 to 285</td>
<td>16</td>
</tr>
<tr>
<td>286 to 560</td>
<td>14</td>
</tr>
<tr>
<td>561 to 1,000</td>
<td>12</td>
</tr>
<tr>
<td>1101 to 4,000</td>
<td>7</td>
</tr>
<tr>
<td>4001 to 12,000</td>
<td>1/4 inch</td>
</tr>
<tr>
<td>12001 to 20,000</td>
<td>5/16 inch</td>
</tr>
<tr>
<td>20001 to 30,000</td>
<td>3/8 inch</td>
</tr>
</tbody>
</table>

For tanks of one thousand one hundred gallons and more a tolerance of ten percent in capacity shall be allowed.
Tanks shall be constructed of open hearth steel or wrought iron. No “seconds” may be used. All material lighter than No. 7 U.S. Standard gauge shall be galvanized.

For Class III liquids, if adequate internal bracing is provided, tanks from one thousand two hundred to thirty thousand gallons capacity may be built of steel plate one quarter inch thick.

All joints of tanks shall be riveted and caulked, brazed, welded, or made tight by some equally satisfactory process. Tanks shall be tight and sufficiently strong, to bear without injury the most severe strains to which they may be subjected in use. Shells of tanks shall be properly reinforced where connections are made, and all connections made through the top of the tank above the liquid level.

Tanks for systems under pressure shall be designed for four times the maximum working pressure, and tested to twice the maximum working pressure at the time of manufacture. Prior to installation, underground and enclosed tanks shall be protected against corrosion on the outside in a manner satisfactory to the chief of the fire department, but in every case at least equivalent to two preliminary coatings of red lead followed by a heavy coating of asphalt.

With the approval of the chief of the fire department, tanks of copper or other suitable material may be used if after the necessary handling incident to installation they are equivalent in strength, rigidity, durability and tightness to the steel or iron tanks described above. (Ord. 33 §21, 1948).

16.12.240 Material and construction of aboveground tanks. Tanks (including tops) shall be constructed throughout of open hearth steel or of wrought iron of a thickness in accordance with the following requirements. No open tank shall be used. For liquids of thirty-five degrees Baume or heavier, tanks may be constructed of concrete in accordance with the Standards of the National Fire Protection Association.

(a) Horizontal or vertical tanks not over one thousand one hundred gallons capacity.

<table>
<thead>
<tr>
<th>Capacity (Gallons)</th>
<th>Minimum Thickness of Material</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 60</td>
<td>18 gauge (U.S. Standard)</td>
</tr>
<tr>
<td>61 to 350</td>
<td>16 gauge (U.S. Standard)</td>
</tr>
<tr>
<td>351 to 560</td>
<td>14 gauge (U.S. Standard)</td>
</tr>
<tr>
<td>561 to 1,100</td>
<td>12 gauge (U.S. Standard)</td>
</tr>
</tbody>
</table>

(b) Horizontal tanks over one thousand one hundred gallons capacity.

Tanks having a diameter of not over six feet shall be made of at least three sixteenth inch steel. Tanks having a diameter of over six feet and less than eleven and one-half feet shall be made of at least one-quarter inch thick.

Such tanks, if supported horizontally above the surface of the ground, shall be constructed in accordance with accepted engineering practice and shall meet the following minimum requirements:

Joints shall be riveted and caulked, riveted and welded, or welded.

Tank heads over six feet in diameter shall be dished, stayed, braced or reinforced.

Tanks shall be designed to withstand a venting pressure of at least five pounds per square inch and shall be tested at the time of manufacture at a pressure of at least eight pounds per square inch (measured at the top of the tank) for a period of at least ten minutes without leakage or
permanent deformation.

Tanks shall be provided with emergency relief openings in accordance with the requirements of Section 16.12.210 for a maximum allowable internal pressure of five pounds per square inch.

Flanges for pipe connections to tanks shall be of steel.

(c) Vertical tanks over one thousand one hundred gallons capacity.

Tanks of this class shall be of such material and so constructed as to have a factor of safety of at least 2.5.

The minimum thickness of shell or bottom shall be three-sixteenth inch. The minimum thickness of roof shall be one-eighth inch.

The thickness of plates shall be in accordance with the following formula:

\[ t = \frac{H}{D} \times F \times S \times T \times E \]

- \( t \) = thickness of plate in inches.
- \( H \) = height of tank in feet above the bottom of the ring under consideration.
- \( D \) = diameter of the tank in feet.
- \( F \) = factor of safety (taken as 2.5).
- \( S \) = specific gravity of liquid stored (Water=1).
- \( T \) = tensile strength of plate in pounds per square inch.
- \( E \) = efficiency of vertical joint in ring under consideration.

The tensile strength of the steel shall be taken as fifty-five thousand pounds per square inch, and the shearing strength of rivets shall be taken as forty thousand pounds per square inch.

Tanks shall be riveted, welded or brazed and shall be caulked or otherwise made tight in a workmanlike manner. The top of the tank shall be securely fastened to top ring with joints having the same tightness as the joints between the rings.

All iron or steel tanks shall be thoroughly coated on the outside with tar, asphaltum or other suitable rust resisting materials.

Roofs or tops of tanks shall have no unprotected openings. Roofs or tops shall be firmly and permanently joined to the tank and all joints shall be riveted and caulked, brazed, welded, or made tight by other process satisfactory to the chief of the fire department.

Except in oil refineries or large water or pipe line terminals, tanks containing flammable liquids having flash point below seventy degrees Fahrenheit (closed cup tester) shall have painted conspicuously upon the side the wording “FLAMMABLE--KEEP FIRE AWAY”.

With the approval of the chief of the fire department, tanks of copper or other suitable material may be used if after the necessary handling incident to installation, they are equivalent in strength, rigidity, durability and tightness to the steel or iron tanks described above. For liquids of thirty-five degrees Baurne or heavier, tanks may be constructed of concrete in accordance with the Standards of the National Fire Protection Association.

NOTE: Vertical steel tanks with riveted shells constructed in accordance with A P.1. Standard No. 12-A are substantially equivalent to those specified in subsection (c) and Section 16.12.250 and shall be considered as meeting the requirements of this chapter for vertical tanks. (Ord. 33 §22, 1948).
to those between rings. Tanks shall be covered with asphaltum or other nonrusting paint or coating. All pipe connections shall be made through flanges or metal reinforcements securely riveted, bolted or welded to the tank and shall be made thoroughly tight. (Ord. 33 §23, 1948).


(a) All tanks shall be electrically grounded by resting directly on moist earth or otherwise electrically grounded to permanent moisture to the satisfaction of the chief of the fire department. No insulated connections shall be permitted. Telephone poles or other projections liable to act as lightning discharge points shall be kept as far as practicable from tanks. All steel work reinforced concrete tanks shall be interconnected and grounded by an approved method.

(b) Tanks more than one foot above the ground shall have foundations of noncombustible materials except that wooden cushions may be permitted; no other combustible material shall be permitted under or within ten feet of any aboveground outside storage tank.

Supports for outside aboveground horizontal tanks shall be of concrete, or masonry or of steel protected by concrete or other approved fireproofing. These supports shall be so designed that their strength will not be materially affected by fire.

(c) All tanks containing crude oil or other liquids which have a tendency to boil over, shall be adequately and properly diked with a dike having a capacity of not less than equal in volume to that of the tank or tanks surrounded; minimum height of earth dikes to be three feet and masonry dikes thirty inches. When dikes surround tanks containing crude oil, they shall have in addition to above capacity, suitable coping or deflector projecting inward, properly constructed to minimize the effect of a "boil over" wave. Dikes surrounding crude oil tanks shall be not less than five feet from the shell of the tank or tanks surrounded.

(d) Where individual tanks, except as specified in subsection (c) exceed fifty thousand gallons in capacity, and for smaller tanks where deemed necessary by the chief of the fire department, on account of proximity to streams, character of topography, or nearness to structures of high value, aboveground storage tanks containing flammable liquids shall be diked or the entire yard provided with a curb or retaining wall or other suitable means taken to prevent the discharge of liquid onto other property in case of rupture of tank or piping.

(e) Except as provided in subsection (c) where an impounding basin is required under this section, dikes shall have a capacity equal to that of the largest tank plus ten percent of the aggregate capacity of all other tanks so protected.

(f) Dikes or walls required under this section shall be of earth or masonry, so constructed as to afford adequate protection. Earthen dikes shall have a flat section at the top of not less than eighteen inches, and shall have—a slope consistent with the angle of repose of the materials of which they are constructed. Dikes shall not be higher than one-half the tank height. The capacity of impounding basins shall be maintained. (Ord. 33 §24, 1948).

16.12.270 Valve near tank if aboveground. Where tanks are aboveground there shall be a valve located near the tank in each pipe. In case two or more tanks are cross connected there shall be a valve near each tank in each cross connection. (Ord. 33 §25, 1948).

16.12.280 Additional valves. In addition to the valves required in Section 16.12.270 each tank outlet, through which liquid will flow by gravity, shall be equipped with an inside self closing check valve which, when open, is held open by a fusible link. (Ord. 33 §25A, 1948).

16.12.290 Pumps. Pumps delivering to or taking supply from aboveground storage tanks shall be provided with valves on both suction and discharge of pump, and in delivering to tanks a check valve to prevent flow of liquid from tank to pump. Electric motors or internal combustion engines shall not be placed beneath tanks or elsewhere within the line of vapor travel. (Ord. 33 §26, 1948).

16.12.300 Venting of underground tanks. Where underground tanks are used, all pipes carrying flammable liquids shall pitch toward tanks without any traps or pockets and shall enter the tanks at the top.

(1) Each underground tank shall be provided with a vent pipe connected with the top of the
tank and carried up to the outer air. Pipe shall be arranged for proper draining to storage tank and its lower end shall not extend through top of tank for a distance of more than one inch; it shall have no traps or pockets.

(2) Upper end of pipe shall be provided with a goose neck, or T attachment, or weatherproof hood.

(3) The vent opening shall be of sufficient area to permit proper inflow of liquid during the filling operation, and shall be not less than one and one-quarter inch in diameter.

(4) If liquid is pumped into tank through tightly connected fittings the vent pipe shall be at least as large as the fill pipe. (Ord. 33 §27, 1948).

16.12.310 Requirements for piping. All piping used in systems for flammable liquids shall be of the standard full weight wrought iron, steel or brass type for working pressures less than one hundred pounds per square inch; for working pressures in excess of one hundred pounds per square inch extra heavy pipe and fittings shall be used. No pipe less than one-half inch internal diameter shall be used. Outside piping shall be protected against any mechanical injury when within five feet of ground level. Inside piping shall be rigidly supported. (Ord. 33 §28, 1948).

16.12.320 Leaky piping. Defective and leaking piping shall be made tight immediately or replaced. (Ord.33 §29, 1948).

16.12.330 Filling pipe. The end of the filling pipe for underground storage tanks for Class I and II liquids shall be carried to an approved location outside of any building, but not within five feet of any entrance door, or cellar opening and shall be equipped with a screw cap or locked cover. (Ord. 33 §30, 1948).

16.12.340 Deliveries to storage tanks. Deliveries of flammable liquids of Class I and II, where practical, shall be made directly to the storage tank through the filling pipe by means of a hose or pipe between the filling pipe and barrel, tank wagon, or tank car from which such liquid is being drawn. No railway tank car shall be unloaded from the bottom outlet thereof. (Ord. 33 §31, 1948).

16.12.350 Electrical equipment to hazardous locations. All motors, switches or other electrical equipment in pump houses and other hazardous locations shall be of vapor proof or explosion proof construction and shall be installed in accordance with the National Electrical Code. (Ord. 33 §32, 1948).

16.12.360 Penalties for violations. Any person, firm or corporation violating any of the provisions of this chapter, shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment. (Ord. 33 §33, 1948).


(a) Fuel oil, Class II flammable liquid may be stored in the basement of a home or building in a five-hundred-gallon tank or two, two-hundred-and-sixty-five-gallon tanks.

(b) Gasoline, Class I flammable liquid may be stored in a garage or a ground floor building in a UL approved safety can in no greater amount than five gallons. Storage of larger amounts of gasoline within the city limits shall be only with express permission of the fire chief by permit and shall be in underground tanks meeting the same requirements as a retail filling station. (Ord. 227 (part), 1976).
Chapters:

17.04  Building Code
17.08  Plumbing Code
17.12  Electrical Code
17.16  Areas of Special Flood Hazard
Chapter 17.04

BUILDING CODE

1. For state law authorizing the enactment of building regulations, see N.D.C.C. §40-05-02(7).

Sections:

17.04.010 Appointment of building inspector.
17.04.020 Duties of building inspector.
17.04.030 Stop order.
17.04.040 Right of entry.
17.04.050 Permit required.
17.04.060 Application for permit.
17.04.070 Variations.
17.04.080 Enforcement of provisions.
17.04.090 Fees for permit.
17.04.100 Boundaries of fire limits.
17.04.110 Exterior coverings.
17.04.120 Repairs.
17.04.130 Construction regulations.
17.04.140 Hazardous uses.
17.04.150 Fireproof construction.
17.04.160 Wooden structures.
17.04.170 Grain elevators and ice houses.
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17.04.200 Mortar.
17.04.210 Materials for concrete and cement mortar.
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17.04.370 Permit for moving buildings.
17.04.380 Route approval--Fee.
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17.04.400 Lights and warnings.
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17.04.430 Purpose of Sections 17.04.440--17.04.550.
17.04.440 Dangerous buildings defined.
17.04.450 Standard for repair, vacation or demolitions.
17.04.460 Declared nuisances.
17.04.470 Duties of building inspector.
17.04.480 Duties of city council.
17.04.010 Appointment of building inspector. There is created the position of building inspector, who shall be appointed by the mayor with the consent of the city council. (Ord. 70 Art. I §1, 1957).

17.04.020 Duties of building inspector. It shall be the duty of the building inspector to see to the enforcement of all ordinance provisions relating to buildings and zoning and to inspect all buildings or structures being erected or altered, frequently as may be necessary to insure compliance with the city ordinance. (Ord. 70 Art. I §2, 1957).

17.04.030 Stop order. The building inspector shall have the power to order all work stopped on construction or alteration or repair of buildings in the city, when such work is being done in violation of any provision of any ordinance relating thereto, or in violation of Title 19. Work shall not be resumed after the issuance of such an order except on the written permission of the inspector, provided that if the stop order is an oral one, it shall be followed by a written stop order within an hour. Such written stop order may be served by any policeman. (Ord. 70 Art. I §3, 1957).

17.04.040 Right of entry. The building inspector shall have the power to make or cause to be made entry into any building or premises where the work of altering, repairing or constructing any building or structure is going on, for the purpose of making inspection, at any reasonable hour. (Ord. 70 Art. I §4, 1957).

17.04.050 Permit required. No person shall begin any construction work on their property for which a permit is required until that person has made application for a permit to the city building inspector or city auditor and the permit has been issued. All building construction shall be performed in strict compliance with the ordinances of the City of Rugby, and the provisions of this chapter, and any other such rules and regulations as the City shall make from time to time for the execution of the same. (Ord. 387, 2014; Ord. 70 Art. II §1, 1957).

17.04.060 Application for permit. Application for such permits shall be made to the city auditor, and shall be accompanied by a statement of the proposed location, dimensions and manner of the proposed construction, alteration or repair of such building or structure. Where the cost of the proposed construction, alteration or repair shall exceed two thousand five hundred dollars there shall also be furnished to the city auditor a complete copy of the plans and specifications of the same, and where such cost shall be less than two thousand five hundred dollars, there shall be furnished to the city auditor such sufficient information as shall enable the building inspector to make all necessary records and a complete description of such building or structure. Such application with plans and specifications or such other information as is herein provided for shall be referred to the building inspector, who shall consider and examine the same to determine whether the proposed construction, alteration or repair will comply with the ordinance provisions relative thereto. Upon approval thereof, the building inspector shall give the permit asked for, which shall be valid for six months from the date thereof. (Ord. 70 Art. II §2, 1957).

17.04.070 Variations. It shall be unlawful to vary materially from the submitted plans and specifications unless such variations are submitted in an amended plan to the building inspector and approved by him. (Ord. 70 Art. II §3, 1957)

17.04.080 Enforcement of provisions. The building inspector shall make or cause to be made such inspections as are necessary to see to the enforcement of the provisions of this chapter, and to make
any tests or examinations of materials or methods to be used for the purpose of seeing that they comply with the provisions of this chapter. (Ord. 70 Art. II §4, 1957).

17.04.090 Fees for permit. Applicants for building permits shall, at the time of making such application, pay to the city auditor a fee in accordance with the following schedule:

**Fee Schedule**

| Measuring Lot Lines: | $50 |
| Fence, Deck, or Shed up to 10'x12': | $25 |
| Shed over 10'x12": | $75 |

**Residential Home**

| Remodeling & Additions | $75 |
| $0 - $250,000 | $100 |
| $250,001 and up | $200 |

**Commercial Property**

| Remodeling & Additions | $100 |
| $0 - $1,000,000 | $400 |
| $1,000,001 - $4,000,000 | $750 |
| $4,000,001 and up | $1,000 |

(Ord. 387, 2014; Ord. 212, 1974; Ord. 70 Art. II §5, 1957).

17.04.100 Boundaries of fire limits. The fire limits heretofore established and in effect in the city on June 3, 1957, shall be and continue to be the fire limits of the city from and after the effective date hereof; provided, however, that in the event the city shall hereafter enact and place in effect a zoning ordinance for the city, then and in that event all that part of the city zoned for other than residential use in such ordinance shall be and become the fire limits of the city. (Ord. 70 Art. III §1, 1957).

3. For state law as to the establishment of fire limits, see N.D.C.C. §40-05-01(34).

17.04.110 Exterior coverings. It shall be unlawful to construct any building or structure within the fire limits unless the exterior walls and roof of such building or structure are covered with or constructed of nonflammable material; provided, that this shall not operate to prohibit the construction of wooden porches, balconies or ornamental work no higher than the second story within such fire limits. (Ord. 70 Art. III §2, 1957).

17.04.120 Repairs. It shall be unlawful to repair any existing frame building within the fire limits after the same has been damaged by any cause to fifty percent of its value. Any existing frame building in the fire limits may be brick veneered. (Ord. 70 Art. III §3, 1957).

17.04.130 Construction regulations. It shall be unlawful for any person, firm or corporation to construct, or alter or repair any building or structure, including fences, sheds, and decks, in the city except upon compliance with the provisions of this chapter. (Ord. 387, 2014; Ord. 70 Art. IV §1, 1957).

17.04.140 Hazardous uses. Any building or structure intended to be used wholly or in part as a theater, auditorium, a public garage or school shall be constructed according to the specifications for fireproof construction set forth in Section 17.04.150. Any building intended to be used as a hospital and which is more than one story in height shall be of fireproof construction; and any building to be used for the storage of explosives or flammable liquids or for storing nitrocellulose, or for a dry cleaning establishment, foundry, or coffee roaster shall be fireproof construction. (Ord. 70 Art. IV §2, 1957).

17.04.150 Fireproof construction. "Fireproof construction" as used in this chapter means a building in which all the parts that carry loads or resist strains, and all exterior walls and all interior walls or partitions and all stairways and elevator enclosures, are made of incombustible material, and in which all metallic structural members are protected against the effects of fire by being embedded in a
material which shall be entirely incombustible and a slow heat conductor. If the metal framework of the roof is not less than twenty-five feet above any floor or balcony, fire proofing of members of the roof framework may be omitted. If the metal framework of a roof is more than eighteen feet and less than twenty-five feet above any floor or balcony the roof framework may be protected by a suspended ceiling of metal lath and Portland cement plaster not less than one inch thick.

The fireproof covering on columns shall be not less than two inches thick if of concrete or gunite, or three inches thick if of other than approved materials; on girders, not less than two inches thick; on other structural parts not less than one and one-half inches thick. The thickness shall be outside the extreme edges of the structural members.

The following building materials, systems, units and forms of construction, assembled and constructed as hereinafter required, shall be accepted as fireproof construction:

- Plain or reinforced concrete;
- Reinforced gunite;
- Precast reinforced concrete units;
- Hollow or solid concrete masonry units;
- Brick (clay, sand-lime or concrete);
- Hollow brick (clay, sand-lime or concrete);
- Plain or reinforced gypsum;
- Precast reinforced gypsum units;
- Hollow or solid gypsum blocks;
- Hollow clay tile;
- Metal lath and Portland cement plaster.

The order in which the foregoing materials are placed on the list is not to be construed as indicating their relative fireproof qualities.

All fire resistive construction laid in units or blocks, such as brick and hollow or concrete or clay tile, shall be solidly bedded and laid in Portland cement or cement-line mortar as defined herein on mortar, and shall be thoroughly bonded together by means of broken joints in alternate courses, or by sufficient metal ties or bands. Provided, however, that gypsum products shall be laid in gypsum mortar. (Ord. 70 Art. IV §3, 1957).

17.04.160 Wooden structures. No building hereafter erected or altered outside the fire limits shall exceed two and one-half stories or thirty feet in height.

No wooden frame building hereafter erected for any occupancy other than grain elevators, coal elevators and pockets and ice houses, shall cover a ground area exceeding the following:

- One story buildings: seven thousand five hundred square feet;
- Two story buildings or two and one-half story buildings: five thousand square feet.

In no case shall a wooden frame building be erected within five feet of the side or rear lot line, nor within ten feet of any other building unless the space between the studs on each side be filled solidly with not less than three and one-half inches of masonry or plain concrete or other equivalent incombustible material.

Buildings with wooden framework clad with sheet metal covered with stucco and veneered with brick, shall be classified as wood frame buildings. (Ord. 70 Art. IV §4, 1957).

17.04.170 Grain elevators and ice houses. Any grain elevator building or ice house may be constructed of wood if the exterior walls and roof are covered by an envelope of incombustible material and if the first story walls of grain elevators are built of masonry not less than twenty inches thick or of reinforced concrete not less than twelve inches thick. The structure above the first story wall
shall be anchored to such wall with three-fourths anchor bolts embedded not less than two feet in the masonry or concrete and spaced not more than six feet apart. Each corner of the structure shall be further reinforced with iron rods not less than one inch thick in diameter extending from above the roof plate to and into the first story wall to a depth of not less than sixty inches. The roof plates shall be fastened down with nuts and washers. All window frames and sashes in the super-structure shall be of metal. The openings shall be protected by wire grating of number fourteen gauge, with meshes not exceeding one-half inch. The openings in the body of the building and in the engine house shall have suitable metal shutters. (Ord. 70 Art. IV §5, 1957).

17.04.180 Floor loads and wind pressure. The design for all buildings and other structures shall conform to good engineering practice. The following table gives the minimum uniform live loads in pounds a square foot which shall be used in the design of buildings, except that the specified live loads (but not the roof or sidewalk loads) may be reduced by twenty percent in buildings of fireproof construction.

| Theaters, assembly halls, and other places of assemblage: | | | | |
| --- | --- | --- | --- | |
| Auditoriums, with fixed seats | Lobbies, passageways, stairways and | | | |
| | auditoriums or places of assemblage | | | |
| without fixed seats | without fixed seats | | | |
| Dance halls | Theater stage | | | |
| | | | | |
| School buildings, libraries and museums: | | | | |
| Classrooms and rooms for similar use | | | | |
| Corridors, lavatories and similar public parts of the buildings | | | | |
| | | | | |
| Hotels, dwellings, apartment and tenement houses, club houses, hospitals and places of detention: | | | | |
| Dwellings | Private rooms and apartments | | | |
| | Public corridors, offices, lobbies, dining rooms, etc | | | |
| | | | | |
| Office buildings: | | | | |
| First floor | Corridors and other public places above the first floor | | |
| | Office space above the first floor | | |
| | Grandstands | | |
| | All stairs | | |
| | | | |
| Garages: | | | | |
| All types of vehicles | Passenger cars only | | |
| | | | |
| Workshops, factories and mercantile establishments: | | | | |
| Not less than | (In warehouses, workshops, factories and mercantile establishments for the sale, storage or manufacture of heavy merchandise or machinery the floors shall be designed to carry all loads safely, including the allowance of at least twenty-five percent for vibration where vibration occurs) | | | |
| Roofs | Sidewalks | | | |
| | (Where the maximum floor load is more than two hundred fifty pounds to a square foot, the sidewalk abutting the building must be designed to carry safely such maximum load) | | | |
| | Concentrated, partial and eccentric loading shall also be provided for. | | | |
Except in buildings for storage purposes the following reductions in assumed Live loads are permissible in designing the columns, piers, walls, foundations, trusses and girders. Reduction of total live loads carried:

- Carrying one floor: 0%
- Carrying two floors: 10%
- Carrying three floors: 20%
- Carrying four floors: 30%
- Carrying five floors: 40%
- Carrying six floors: 45%
- Carrying seven or more floors: 50%

Buildings and other structures shall be designed to resist a horizontal wind pressure of twenty pounds on every square foot of surface that is exposed, in addition to the dead loads and live loads specified above.

If the overturning moment due to wind pressure exceeds seventy-five percent of the moment of stability of the structure due to dead load only, the structure shall be anchored to its foundations, which shall be of sufficient weight to insure the stability of the structure. Sufficient diagonal bracing or rigid connections between the uprights and horizontal structure members shall be provided to resist distortion. (Ord. 70 Art. IV §6, 1957).

17.04.190 Permissible working stresses. Proportioning of the various load carrying parts of buildings and structures shall be governed by working stresses conforming to good engineering practice as set forth in the 1955 edition of the building code recommended by the National Board of Fire Underwriters except in cases where the recommendations are in conflict with the specific requirements of this chapter. (Ord. 70 Art. IV §7, 1957).

17.04.200 Mortar. Portland cement mortar: used for laying up masonry shall be mixed in the proportion of one part of Portland cement to not more than three parts of sand, by volume. Hydrated lime or lime putty may be added not to exceed fifteen percent by volume of the Portland cement used.

Cement-lime mortar shall be mixed in the proportion of one part of hydrated lime or lime putty to not more than six parts of sand by volume.

Lime mortar shall be mixed in the proportions of one part of Portland cement added to the amount of fifteen percent of the volume of the lime. (Ord. 70 Art. IV §8, 1957).


17.04.220 Bearing power of soils. In the absence of tests the different soils, excluding mud and quicksand shall conform to and shall be assumed to sustain safely the following loads per square foot, and footings shall be provided under all walls and columns where required to keep the pressure on the soil within the limits specified in this section:

- Soft clay: 1 ton
- Firm clay, fine sand, or layers of sand, clay, wet condition: 2 tons
- Clay or fine sand, firm or dry: 3 tons
- Hard clay, coarse sand, gravel: 4 tons
- Soft rock, shale and hard pan: 8 to 15 tons
- Rock: 15 to 72 tons
17.04.230 Masonry walls. Masonry is that form of construction in which noncombustible masonry units such as stone, brick, concrete block, or tile, hollow clay tile, gypsum block, or other similar building units or materials or a combination at these materials, are laid up unit by unit and set in mortar. The minimum permissible thickness of walls and partitions of masonry, and the quality of those materials, shall conform to the American Standard Building Code Requirements for Masonry, 1954 edition, published by the National Bureau of Standards of the States Department of Commerce.

Masonry bearing walls, party walls, fire walls, fire division walls, exterior panel walls, inclosure walls or curtain walls, eight inches or less in thickness must be laid in Portland cement or cement—lime mortar as defined in this chapter. (Ord. 70 Art. IV §11, 1957).

17.04.240 Monolithic concrete walls. Monolithic concrete walls having less than two-tenths of one percent of reinforcing steel shall be considered as plain concrete and the thickness of single bearing walls of plain concrete shall be in accordance with the recommendations in the report of the American Standard Building Code Requirements for Masonry, 1954 edition.

Subject to the requirements in other parts at this chapter, reinforced concrete bearing walls shall have a thickness of not less than six inches for the top story with the thickness of succeeding lower stories including basement, increasing at the rate of one inch for each two stories.

In such walls the amount of reinforcement shall be at least two-tenths of one percent in each direction, horizontal and vertical, the steel being equally distributed on each face of the wall within a maximum bar spacing of twenty-four inches.

The combined thickness of the separate parts of double or triple monolithic walls shall be not less than that required for single walls, and no single section of a double or triple wall shall be less than four inches thick. The sections shall be tied together with three-eighths inch round or square, galvanized or tar coated rods, with two inch hooks at each end, the rods to be spaced not more than eighteen inches horizontally and vertically.

Exterior panel walls supported at each story of skeleton construction buildings shall be not less than five inches thick of reinforced concrete. (Ord. 70 Art. IV §12, 1957).

17.04.250 Floor areas. No single family residence building shall be constructed unless it shall contain floor areas equaling those set forth herein:

- One story building ........ ....... ......................... ........ ....... ............ 780 square feet
- Two story building ........ ....... ......................... ........ ....... ............ 1360 square feet
- Sleeping rooms ........ ....... ......................... ........ ....... ............ 80 square feet

No residence building shall be erected for or changed to multiple family use unless it shall contain a floor area of at least six hundred square feet in each family unit.

Each bedroom shall have a window area of not less than one-tenth of the floor area. (Ord. 70 Art. IV §13, 1957).

17.04.260 Private garage height. No private garage shall exceed fourteen feet in total height. (Ord. 70 Art. IV §14, 1957).

17.04.270 Beams entering party walls and fire walls. Where floor beams, ceiling beams, or roof beams enter a party wall or fire wall from opposite sides, the ends of such beams shall be separated at least six inches by solid masonry or concrete. Such separation may be obtained by corbelling the
wall or staggering the beams, but no wall shall be corbelled more than two inches for this purpose. The ends of all metal beams entering the masonry walls shall be cut to a level to make them self-releasing. (Ord. 168(part), 1969).

17.04.280 Openings in fire or party walls. Openings in party or fire walls shall be provided with self-closing fire doors or with positive means of closing the openings to prevent the passage of fire. Doors in fireproof stair and elevator shaft enclosures and coverings or hatchways in floors of all buildings shall be self-closing. (Org. 70 Art. IV §16, 1957).

17.04.290 Chimneys. Chimneys for high pressure boilers, furnaces used in manufacture, or for other heating appliances where high temperatures are maintained, and all isolated chimneys shall be designed and built in accordance with good engineering practice and so that the stress in every part thereof, due to temperature changes, wind pressure and the weight of the chimney itself, shall not exceed the safe limits specified in this chapter for the materials used.

All ordinary chimneys which form a part of building construction shall conform to the standards for chimney construction under the title “Chimneys” as contained in the 1955 edition of the Building Code Recommendations by the National Board of Fire Underwriters. (Ord. 70 Art. IV §17, 1957).

17.04.300 Stair and elevator shafts. The stair and elevator shafts of all buildings except private dwellings, hereinafter erected more than two stories high, shall be enclosed continuously by incombustible material, consisting of reinforced gunite not less than two and one-half inches thick, or of solid Portland cement plaster not less than two and one-half inches thick on metal lath and metal frame, or of reinforced concrete not less than three inches thick, or of any fireproof material or construction that will pass the standard fire test of the underwriter’s laboratories of a period of at least two hours. The thickness must in all cases be sufficient to give rigidity. (Ord. 70 Art. IV §18, 1957).

17.04.310 Means of egress. All buildings, including single family dwellings, more than one story high, hereafter erected shall be provided with at least two means of egress from the building, as far from each other as the plan of the building will permit, or by a doorway in a fire wall leading to another floor area which is provided with adequate stairs or other independent means of exit. No part of a floor shall be more than one hundred feet from an exit. (Ord. 70 Art. IV §19, 1957).

17.04.320 Fire escapes. In addition to the exits otherwise provided for and required for every building of more than three stories which is used for residence purposes for more than one family, or is used as a store, office or factory, and every building of more than one story which is used in whole or part above the first story as a theater, school or auditorium, shall be equipped with at least two metallic fire escape stairways leading from the roof to the ground, provided, that an enclosed fireproof stairway of at least five feet in width, which is equipped with fireproof doors and the structure and shaft of which are so constructed as to be independent of the support of the rest of the building so that they can stand alone, may be substituted for such outside fireproof stairways.

The ground exit of all such stairways, whether enclosed or outside shall be in such position as to affect ready and immediate escape from the immediate vicinity of the building.

It shall be unlawful to obstruct, or permit the obstruction of, any such fire escape or stairway, or the entrance thereto, or the exit there from. (Ord. 70 Art. IV §20, 1957).

17.04.330 Use of streets. The use of streets for the storage of materials in the process of construction or alteration of a building may be granted when the same will not unduly interfere with traffic and will not reduce the usable width of the street to less than eighteen feet; no portion of a street other than that directly abutting on the premises on which work is being done shall be used except with the consent of the owner or occupant, of the premises abutting on such portion. Any person seeking to make such use of the street shall file an application with the city auditor, together with a bond with sureties to be approved by the city auditor, to indemnify the city for any loss or damage.
which may be incurred by reason of such use and occupation. (Ord 70 Art. V §1, 1957).

17.04.340 Night operations. No construction or alteration operations shall be carried on at nighttime if the same are accompanied by loud or annoying noises. (Ord. 70 Art. V §2, 1957).

17.04.350 Sidewalks. No sidewalk shall be obstructed in the course of building operations without a special permit from the city auditor; and whenever a removal of a sidewalk is required such work shall not be done until a special permit is secured from the city auditor. (Ord. 70 Art. V §3, 1957).

17.04.360 Safeguards. It shall be the duty of a person or corporation doing any constructing, altering or wrecking to do the same with proper care for the safety of persons and property.

Warning barricades and lights shall be maintained whenever necessary for the protection of pedestrians or traffic; and temporary roofs over sidewalks shall be constructed whenever there is danger from falling articles or materials to pedestrians. (Ord. 70 Art. V §4, 1957).

17.04.370 Permit for moving buildings. No person, firm or corporation shall move any building on, through or over any street, alley, sidewalk or other public place in the city without having obtained a permit therefore from the city council. Applications for such permits shall be made in writing to the city auditor and shall state thereon the proposed route and the number of days it is intended that the building shall occupy any portion of any street, alley, sidewalk or other public place. (Ord. 70 Art. VI §1, 1957).

17.04.380 Route approval--Fee. Upon approval of the intended route by the city council fee of five dollars for each day or fraction thereof that it is intended that the building shall occupy any such portion of any public place shall be paid to the city auditor and the permit issued. An additional payment of five dollars for each day or fraction thereof over and above the time stated on the permit during or on which any building shall occupy such public place shall be paid. (Ord. 70 Art. VI §2, 1957).

17.04.390 Bond. Every person, firm or corporation applying for a permit under Sections 17.04.370--17.04.420 shall submit with the application a cash bond with a lawful corporate surety to be approved by the council, conditioned on his compliance with all the provisions of this article, and agreeing to pay and holding the city harmless from any claim which may be made against it by reason of the occupation of any street, alley, sidewalk or other public place by the building or structure moved. (Ord. 70 Art. VI §3, 1957).

17.04.400 Lights and warnings. Whenever a street or alley is blocked by a house or structure which is being moved warnings to that effect shall be placed by the police department so as to warn vehicles and persons from entering that portion of the street so blocked. The person, firm or corporation moving any building through the streets shall keep warning signs and lanterns or lights at night on the building so as to guard against any person or vehicle from colliding with it. (Ord. 70 Art. VI §4, 1957).

17.04.410 Cutting wires. Whenever it shall be necessary to interfere with wires or cables of a public utility in moving a building the terms of any special or franchise ordinance governing shall apply and the bond therein specified shall be given, if no such terms apply, then the mayor shall estimate the expense of fixing the wires and the bond to be given to cover such expense. (Ord. 70 Art. VI §5, 1957).

17.04.420 Fire alarm wires. When any such involving building approaches any fire alarm wire or pole which shall be endangered by the removal of such building or structure, it shall be the duty of the mover to notify the fire marshal at least six hours before reaching such wire or pole so that they may be removed or cared for by the city authorities. (Ord. 70 Art. VI §6, 1957).

17.04.430 Purpose of Sections 17.04.440--17.04.550. Whereas, in the city, there are and may in the future be, buildings or structures which are dilapidated, unsafe, dangerous, unsanitary, menacing to
the health, morals, safety and general welfare of the people of the city and which might tend to constitute a fire menace and which are a public nuisance, it is hereby found and determined that it is necessary to regulate, control, abate or remove or cause to be repaired or alleviated such conditions whenever and wherever found to exist in the city and the purpose of Sections 17.04.440--17.04.550 is to prescribe the methods and means of so doing. (Ord. 99 §1, 1960: prior Ord. 98 §1, 1960)

17.04.440 Dangerous buildings defined. For the purpose of this chapter, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

3. Whenever the stress in any materials, member or portion thereof. Due to all dead and live loads, are more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.

4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or
structure provided by the building regulations of this jurisdiction, as specified in the Building Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less that 50 percent, or in any nonsupporting part, member or portion less that 66 percent of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or is such a condition that is likely to cause sickness or disease.

16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.

17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

17.04.450 Standard for repair, vacation or demolitions. The following standard shall be followed in substance by the building inspector and the city council in ordering repair, vacation or demolition:

(1) If the “dangerous building” can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter it will 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 occupants it shall be ordered to be vacated.

(3) In any case where a “dangerous building” if fifty percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter 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 chapter or any ordinances of the city or statutes of North Dakota, it shall be demolished. (Ord. 99 §3, 1960: prior Ord. 98 §2, 1960).

17.04.460 Declared nuisances. All “dangerous buildings”, within the terms of Section 11.04.430, are hereby declared to be public nuisances, and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided. (Ord. 99 §4, 1960: prior Ord. 98 §3, 1960).

17.04.470 Duties of building inspector. The building inspector 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 condition exists which renders any of such places a “dangerous building” with in the terms of Section 17.04.430.

(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 chapter.

(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 chapter.

(4) Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in the building, as shown by the records in the office of the register of deeds of the county of Pierce of any building found by him to be a “dangerous building” within the standards set forth in Section 17.04.430 that: (A) the owner must vacate, or repair, or demolish the building in accordance with the terms of the notice and this chapter; or, (B) the owner or occupant must vacate the building or may have it repaired in accordance with the notice and remain in possession. Provided, that any
person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty 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 a “dangerous building”, 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 chapter within such length of time, not exceeding thirty days, as is reasonable.

(6) Report to the city council any noncompliance with the “notice” provided for in Subsections (4) and (5).

(7) Appear at all hearings conducted by the city council and testify as to the condition 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 Pierce. It is unlawful to remove this notice until such notice is complied with.” (Ord. 99 §5, 1960: prior Ord. 98 §4, 1960).

17.04.430 Duties of city council. The city council shall:

(1) Upon receipt of a report of a building inspector as provided for in Section 17.04.470, give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in the building as shown by the records of the register of deeds of the county of Pierce 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 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 Pierce.

(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 Pierce shall offer relative to the "dangerous building.

(3) Make written findings of fact from the testimony offered pursuant to Subsection (2) hereof as to whether or not the buildings in question is a "dangerous building" within the terms of Section 17.04.430.

(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 the building as shown by the records of the registrar of deeds of the county of Pierce to repair, vacate or demolish any building found to be a "dangerous building", within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing the "dangerous building." (Ord. 99 §6, 1960: prior Ord. 98 §5, .1960).

17.04.490 Failure to comply with decision of city council. If the owner, occupant, mortgagee, or lessee fails to comply with the order of the city council, or fails to appeal to the district court, within thirty days as provided herein, the city, through its officers and employees, shall cause such building or structure to be repaired, vacated or demolished as ordered by the city council, and shall cause the costs of such repair, vacation, or demolition to be charged against the land on which the building existed by special assessment, or as a municipal lien, or shall cause the 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. (Ord. 99 §7, 1960: prior Ord. 98 §6, 1960).

17.04.500 Violations--Notice or orders. It shall be unlawful for the owner of any "dangerous building" to fail to comply within the time therein set forth with any notice or order to repair, vacate, or demolish the building given by any person authorized by this chapter to give such notice or order, and a separate violation shall be deemed committed on each day during or on which a violation occurs or continues.

It shall be unlawful for the occupant or lessees in possession to fail to comply within the time therein set forth with any notice to vacate or fail to repair the building, given as provided for in this chapter and
a separate violation shall be deemed committed on each day during or on which a violation occurs or continues.

It shall be unlawful for any person to remove the notice provided for in Section 17.04.470. (Ord. 99 §8, 1960: prior Ord. 98 §7, 1960.

17.04.510 Duties of the city attorney. The city attorney shall:

(1) Prosecute all persons failing to comply with the terms of the notice provided for herein in Section 17.04.470 and the order provided for in Section 17.04.480.

(2) Appear at all hearings before the 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 chapter. (Ord. 99 §9, 1960).

17.04.520 Where owner absent from the city. In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the city, and all notices or orders provided for herein shall be sent by certified mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in the building as shown by the land records of the register of deeds of the county of Pierce 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. (Ord. 99 §10, 1960: prior Ord. 98 §8, 1960).

17.04.530 Duties of fire, police and health departments. All employees of the fire, police 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 defined in Section 17.04.440. (Ord. 99 §11, 1960: prior Ord. 98 §9, 1960).

17.04.540 Appeal. The city council shall serve upon the owner, occupant, mortgagee, lessee and all other persons having an interest in any 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 within ten days after the issuance of such order. Such owner, occupant, mortgagee or lessee shall thereafter have thirty days from the date of the service of such order upon him in which to appeal to the district court of Pierce County, North Dakota, or to take such 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 city council under and by virtue of this chapter, shall file an undertaking in the sum of at least five hundred dollars 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. (Ord. 99 §12, 1960: prior Ord. 98 §10, 1960).

17.04.550 Permit to repair or demolish “dangerous building.” The building inspector shall issue a permit for the repair or demolition of such building and the fee for such a permit will be the same as for any other building code inspection, minimum fee to be one dollar. (Ord. 99 §13, 1960: prior Ord. 98 §11, 1960).

17.04.560 Building moving into or within city. Any person desiring to move a building into or within the city limits must first obtain the approval of the building inspector and the two councilmen of the ward to which the structure is asked to be moved. Upon approval of the inspector and the two councilmen, the question of moving the building into the city limits shall be referred to the city council whereby a vote of the majority must be obtained before the city auditor will issue his permit allowing the building to be moved into the city limits. (Ord. 177(part), 1970).
Chapter 17.08

PLUMBING CODE

4. For state law as to the adoption of plumbing regulations, see N.D.C.C. §40-05-01(25).

Sections:

17.08.010 Title. Sections 17.08.010--17.08.160 shall be known as the North Dakota State Plumbing Code, and may be so cited, and will be referred to in Sections 17.08.010--17.08.160 as this code.

The administration and enforcement of Sections 17.08.010--17.08.160 shall be the duty of the chairman of the water and sewer committee of Rugby, who is hereby authorized to take such action as may be reasonably necessary to enforce the purposes of this code. Such persons may be appointed and authorized as assistants or agents of the chairman as may be necessary to carry out the provisions of this code. (Ord. 86 §1, 1959).

17.08.020 Scope. The provisions of this code shall apply to and govern plumbing as described in this code, including the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: Sanitary drainage or storm drainage facilities, the venting system, and the public or private water supply systems, within or adjacent to any building or other structure, or conveyance, also the practice and materials used in the installation, maintenance, extension, or alteration of the stormwater or sewage system of any premises to their connection with any point of public disposal or other terminal. (Ord. 86 §2, 1959).

17.08.030 Facilities. It is recognized that certain facilities in or adjacent to public streets are referred to in this code only a portion of which is under the ownership or the control of the owner or occupant of the building or premises to which this code applies. (Ord. 86 §3, 1959).

17.08.040 Master plumber's license. No individual shall engage in the occupation of master plumber, as defined in Section 43-1801 of the NDRC of 1943, within the city unless licensed as a master plumber under the provisions of this code. (Ord. 86 §4 (part), 1959).
17.08.050 Supervision of work. No individual, firm, partnership or corporation shall engage in the business of installing, repairing, or altering plumbing unless the plumbing work performed in the course of such business is under the direct supervision of a licensed master plumber. (Ord. 86 §4 (part), 1959).

17.08.060 Journeyman plumber's license. No person shall engage in the occupation of journeyman plumber, as defined in Section 43-1801 of the NDRC of 1943, within the city, unless licensed as a journeyman plumber under the provisions of this code. (Ord. 86 §4 (part), 1959).

17.08.070 Prerequisite to obtaining a plumber's license. No person shall be granted a license as a master plumber or as a journeyman plumber by the city, unless he shall at the time of the issuance of such license, hold a current North Dakota state license of the type applied for. (Ord. 86 §5, 1959).

17.08.080 Application and fee. Any person desiring to be licensed as a master plumber or as a journeyman plumber shall make written application to the chairman of the water and sewer committee of Rugby. The fee for a master plumber’s license shall be forty dollars for the first year and ten dollars for a renewal or reinstatement thereof, except that persons having held a plumber's license from the city on February 18, 1959 shall be required to pay only the annual renewal fee. The license fee for a journeyman plumber’s license shall be five dollars annually. Upon payment of the license fee and satisfactory proof to the chairman of the water and sewer committee of the applicant’s qualifications for the license applied for, and upon applicant’s exhibiting to the chairman of his North Dakota master plumber or journeyman plumber's license in current good standing, said application shall be approved and a city license issued by the city auditor. (Ord. 86 §6, 1959).

17.08.090 Master plumber’s bond. A person who has been issued a master plumber’s license shall execute and deposit with the city a bond in the sum of one thousand dollars, such bond to be conditioned that all plumbing work performed by the licensee or under his supervision shall be performed in accordance with the provisions of this code and that he will pay all fines and penalties properly imposed upon him for violation of the provisions of this code. A master plumber’s license shall not be valid unless a bond is executed and deposited as herein provided. (Ord. 86 §7, 1959).

17.08.100 Renewal of licenses. All licenses issued by the board shall expire on December 31 of the year in which issued but may be renewed upon payment of fees in the amount provided in Section 17.08.080. (Ord. 86 §8, 1959).

17.08.110 Revocation of licenses. The city council may revoke any license if obtained through nondisclosure, misstatement, or misrepresentation of a material fact, or if a penalty has been imposed on the licensee under Sections 17.08.040--17.08.060. Before a license may be revoked, the licensee shall have notice in writing, enumerating the charges against him, and be entitled to a hearing by the city council not sooner than five days from receipt of the notice. The licensee shall be given an opportunity to present testimony, oral or written, and shall have the right to cross examination. All testimony shall be given under oath. The city council shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses. The decision of the city council shall be based on the evidence produced at the hearing and made part of the record thereof. A person whose license has been revoked shall not be permitted to apply within one year from date of revocation. (Ord. 86 §9, 1959).

17.08.120 Use of licensee’s name by another. No person who has obtained a plumber's license shall allow his name to be used by another person either for the purpose of obtaining permits, or for doing business or work under the license. Every person licensed shall notify the board of the address of his place of business, if any, and the name under which such business is carried on and shall give immediate notice to the board of any change in either. (Ord. 86 §10, 1959).

17.08.130 Code adopted. The North Dakota State Plumbing Code is hereby by this reference thereto adopted and all installations, repairs, and alterations of plumbing shall, from the effective date of this ordinance, be performed in accordance with its provisions.
In the case of discretionary actions and determinations of the city council, the relevant facts shall be considered and determinations made in the exercise of reasonable discretion and all such determinations shall be final in the absence of abuse of discretion. (Ord. 86 §11, 1959).

17.08.140 Official copy. One copy of the North Dakota State Plumbing Code shall be kept on file by the hoard for inspection by and use of the public and shall be marked with the words “City of Rugby, North Dakota, official copy.” (Ord. 86 §12, 1959).

17.08.150 Inspections and tests. It shall be the duty of the chairman of the water and sewer committee to enforce the provisions of this code and to make the inspections and tests required hereunder. (Ord. 86 §13, 1959).

17.08.160 Right of entry. The chairman of the water and sewer committee shall, after the proper identification, have the right to enter any premises for the purpose of inspecting any plumbing system at such times as may be reasonably necessary to protect the public health. (Ord. 86 §14, 1959).

17.08.170 Licensed plumber to do work. No person other than a licensed contractor, licensed the city shall be permitted to excavate for or construct a sewer and/or water lead within the city. No person other than a licensed plumber shall lay, relay, tap or repair any branch of the sewer or water systems of the city. (Ord. 81 §1, 1958).

17.08.180 Permits required. Before any licensed plumber shall lay, relay, tap or repair any branch of the sewer and/or water service or make any connections with any sewer and/or water system within any street, alley or other public ground within the city, he shall first make an application to the city auditor for a permit to do such work. Such information shall be entered on the application as the city engineer may require. If the city engineer shall have approved the application for such permit, then upon presentation thereof to the city auditor, together with the required fee, the city auditor shall issue to the applicant a permit to do the work specified. Such permits shall be issued in duplicate, the original to be returned to the city engineer, the other to be retained by the applicant. (Ord. 81 §2, 1958).

17.08.190 Work to be done in accordance with city ordinances. All work described in Sections 17.08.010 and 17.08.020 shall be done in accordance with the ordinances of the city and the state plumbing code of North Dakota. Wye connections must be used except with the specific approval of the city engineer. Refilling of trenches must be done in accordance with the ordinances of the city and no back filling of the trenches shall be done for any sewer or water connections laid in the ditches covered until after inspection of and approval by the city engineer. The city engineer shall be notified at least twenty-four hours before an inspection of the work as required. (Ord. 81 §3, 1958).

17.08.200 Inspections not to relieve responsibility. Inspections made by the city engineer shall not in any manner be construed to relieve the licensed contractor or plumber doing such work from any liability or responsibilities imposed upon him under the ordinances of the city or by law. (Ord. 81 §4, 1958).

17.08.210 Fee for permit. The permit fee for permit to make such sewer and/or water connection as defined herein shall be two dollars which amount shall include inspection by the city engineer and which amount shall be in addition to any other permit fees required by ordinances of the city. (Ord. 81 §5, 1958).
Chapter 17.12

ELECTRICAL CODE

Sections:

17.12.010 Code adopted. There is hereby adopted the National Electrical Code, 1959 Edition, as adopted by the National Fire Protection Association, and the whole thereof of which copy is now on file in the office of the city auditor, and the same is hereby adopted as fully as if set out in length herein. All electrical installations hereafter to be made, altered or repaired, in or upon any building or premises in the city shall comply with the provisions of said National Electrical Code and this chapter. (Ord. 96 §1, 1960).

17.12.020 Inspections. All electrical installations hereafter to be made altered or repaired in or upon any building in the city shall be under the supervision of the state electrical inspector, or an electrical inspector appointed by the city council, who shall require such work to comply with this chapter. (Ord. 96 §2, 1960).

17.12.030 Right of entry. The city electrical inspector, and any assistant inspectors, shall, have the right, during reasonable hours, to enter any building in the discharge of his duties, or for the purpose of making any inspection or test of the electrical installation or electrical equipment contained therein, and shall have the authority to cause the turning off of all electrical current, and to cut or disconnect the cases of emergency, any wires where such electrical currents are dangerous to life or property, or where such wires may interfere with the work of the fire department. The city electrical inspector is hereby empowered to disconnect or order the discontinuance of electrical service to and electric wiring or equipment found to be defectively installed or otherwise not in conformity with the provisions of this chapter, until such wiring or equipment shall have been made safe as directed by him. (Ord. 96 §3,
17.12.040 Hazardous conditions. All existing electrical installations in the city shall be subject to inspection if reported in hazardous condition by any master electrician of the city, any members of the fire underwriters, any member of the fire insurance companies, and if, in the opinion of the city electrical inspector, hazard exists, the owner shall be so notified, with a request that the fault be corrected. It shall be left to the state board of arbitration to determine whether or not such corrections shall be made compulsory. Every electrical installation, addition to or alteration of any electrical installation, hereinafter installed, shall be subject to inspection and test as elsewhere provided in this chapter. (Ord. 96 §4, 1960).

17.12.050 Repair of improper work. The electrical inspector is hereby given authority to order the removal and replacement, or the alteration, of any installation, or portion thereof, for which a permit has been obtained, should he, upon inspection, of the same, find it to have been executed in violation of any of the provisions of this chapter. In case such removal and replacement, or alteration, is not promptly executed by the holder of the permit under which such installation was made, the electrical inspector may cause the same to be removed, or disconnected from any source of power, or the whole wiring system of which such installation forms a part, to be so disconnected or otherwise rendered incapable of being used, at the expense of the city. It shall thereafter be unlawful for any person in any way to use such installation, or to supply the power thereto, until the same incapable of being used, shall have been paid by the holder of such permit. No permit for any other work shall be issued to any work in violation of the provisions of this chapter until such work shall have been made to conform thereto, and until any costs to the city, arising from the correction of such work, shall have been paid. (Ord. 96 §5, 1960).

17.12.060 Decision of state board of arbitration. In case any difference shall arise between the electrical inspector and the owner of any electrical installation, or any person engaged in, or desirous of doing any electrical work, regarding the interpretation of any of the provisions of this chapter, or the enforcement of the same, appeal may be made to the state board of arbitration, whose decision thereon shall be final. (Ord. 96 §6, 1960).

17.12.070 License and bond of master electrician. All electrical work hereafter to be installed in any building within the corporate limits of the city, shall be undertaken and executed only by such persons as hold a master electrician’s license, as provided in the laws of North Dakota, and have given a surety bond in the sum of one thousand dollars, approved by the city council, for the execution of all work in conformity with the laws of North Dakota, and the provisions of this chapter, and the protection, indemnification and saving harmless of the city from any or all loss, claim suit or damage, direct or consequential, which the violation of any of the laws of North Dakota, and the provisions of this chapter, or through negligence, or in any manner whatsoever. All workmen employed in any electrical work shall hold such license, or be otherwise so qualified as provided in the laws of North Dakota. (Ord. 96 §7, 1960).

17.12.080 State license. No person shall be granted a license as a master electrician, or as a journeyman electrician by the city, unless he shall at the time of the issuance of such license, hold a current North Dakota state license of the type applied for. (Ord. 96 §8, 1960).

17.12.090 License fees. Any person desiring to be licensed as a master electrician or as a journeyman electrician shall make written application to the city council. The fee for a master electrician’s license shall be two dollars annually. The license fee for a journeyman’s license shall be one dollar annually. Upon payment of the license fee, and satisfactory proof to the chairman of the city council of the applicant’s qualifications for the license applied for, and upon applicant’s exhibiting to the city council of his North Dakota master electrician’s or journeyman’s electrician license in current good standing, said application shall be approved and a city license issued by the city auditor. (Ord. 96 §9, 1960).

17.12.100 Bond. A person who has been issued a master electrician's license shall execute and
deposit with the city, a bond in the sum of one thousand dollars, such bond to be conditioned that all
electrical work performed by the licensee, or under his supervision, shall be performed in accordance
with the provisions of the code, and that he will pay all fines and penalties properly imposed upon him
for violation of the provisions of the code. A master electrician’s license shall not be valid unless a
bond is executed and deposited as herein provided. (Ord. 96 §10, 1960).

17.12.110 Renewal of licenses. All licenses issued by the city council shall expire on December 31,
of the year in which issued; but may be renewed upon payment of fees in the amount provided in
Section 1.7.12.090. (Ord. 96 §11, 1960).

17.12.120 Work without a permit. No person shall commence any electrical work for which a permit
as required until he shall have made application for such permit, and the same shall have been
granted; nor having received a permit, shall perform any electrical work except in strict compliance
with the laws of North Dakota, and the provisions of this chapter, together with such rules and
regulations as the electrical inspector shall make from time to time for the execution of the same. (Ord.
96 §12, 1960).

17.12.130 Multiple permits. When any person, qualified as heretofore set forth, shall desirous of
executing any electrical work within the corporate limits of the city, he shall make application at the
office of the city auditor for a permit to carry on such work. Master electricians who are permanent
residents of the city, may obtain permits in multiples of ten. Any abuse of this privilege to obtain
multiple permits will automatically cancel this privilege. Application shall be in form, and shall contain
such information regarding the proposed work as the electrical inspector shall prescribe; and if the
electrical inspector so required, shall be accompanied by plans, specifications and estimated of cost
thereof. Specifications and plans will not be required if the labor cost is under twenty-five dollars. (Ord.
96 §13, 1960).

17.12.140 Granting permit. When after due consideration and examination, it shall appear to the
electrical inspector that the provisions of this chapter are complied with, he shall give the permit asked
for. (Ord. 96 §14, 1960).

17.12.150 When permit not required. No permit, or application for a permit, shall be required for the
installation of electric stoves, lighting fixtures, switches or motors of less than one-quarter horsepower,
for which outlets have been previously provided; or for electrical installations made upon their own
property by public service corporations, which hold franchises from the city for the manufacture and
distribution of electric power. (Ord. 96 §15, 1960).

17.12.160 Use of name by another. No person holding a master electrician’s license shall allow the
use of his name, or any permit granted to him, by any other person. (Ord. 96 §16, 1960).

17.12.170 Return of permit. Within five days after the completion of any electrical work, the permit
under which the same was executed shall, be returned by the holder thereof to the city auditor with a
notation thereon of such completion. (Ord. 96 §17, 1960).

17.12.180 Certificate of approval. Upon the return of the permit for any completed electrical work,
which shall have been found by the electrical inspector to have been executed in strict accordance
with the laws of North Dakota, and the provisions of this chapter, the electrical inspector shall issue a
certificate of approval. No person shall place in operation, or otherwise use, any electric installation
which is subject to the regulations of this chapter, or supply electric current to, or make electrical
connection with the same, permanently, until such certificate of approval shall have been issued. (Ord.
96 §18, 1960).

17.12.190 Fee for permits. Applicants for permits for electrical installations, at the time such permits
are issued, must pay to the electrical inspector a fee in accordance with the following schedule, which
fee shall cover the examination of plans, granting of permits, and the inspection of the work:
I. Residences and Apartments:
   A. Service and Metering - $1.25
   B. Wiring:
      1. Per living unit - .75
      2. Electric Alterations (No metering involved) - 1.00
   C. Furnaces, Electric hot Water heaters - 1.00

II. Commercial:
   Service and Metering: Rating bases on rating of the feeders that are metered:
      1. Up through 500 Amps.—Per Meter - 2.50
      2. 500 Amps. and up—Per Meter - 5.00
   Wiring:
      1. Wiring-per Floor - 2.00
      2. Additions to existing wiring (If no service charge is required) - 2.00
      3. Signs—If no service or wiring charge is involved 2.00

Electricians who hold permits in multiple must comply with the above regulations upon the return of permits. (Ord. 96 §19, 1960).

17.12.200 Wiring. In all buildings within the fire district no. 1, zones M-I and B-2, and in all buildings within the corporate limits, which are used or intended to be used for any of the following purposes: Auditoriums, churches or other places of public gatherings, multi—family dwellings, institutional and educational building, theaters, moving picture theaters, garages containing over two cars, dry cleaning establishments, machine shops, repair shops, flour mill, grain elevator, oil house, oil service station, or factory, all wiring for electric light, heat and power purposes shall be placed in approved metal conduit; flexible metal conduit, B-1 armor cable excluded, or tubing; provided, that nothing in this chapter shall be construed as requiring the reconstruction or alteration of the wiring or other electrical work in any existing building except as the same shall be deemed hazardous by the electrical inspector. Should any existing building be converted to any of the uses referred to above, the wiring therein shall be altered to conform to the requirements of such use. All wiring for motors and generators of one horsepower or over shall be in metal conduit or flexible metal tubing. (Ord. 95 §20, 1960).

17.12.210 Service entrances. In all buildings hereafter erected or service entrances altered, within the corporate limits of the city, all service wiring between the outside of the building and the mainline cutout shall be placed in an approved metal conduit. One family dwellings may use entrance cable Type S.E., with a rating of not less than one hundred amperes, and copper conductor three stranded AW.G. If aluminum conductor is used, it shall be one gauge size larger than the corresponding copper conductor. Aluminum conductor must be thoroughly cleaned with either a wire or fiber glass brush, then thoroughly impregnated with a compound such as fargolene or zinc chromate before making any splices, connections or attachments. Service entrance to all buildings except single family dwellings shall be in conduit from point, of attachment, to utility service wires to main disconnect switch, excepting when outside metering is used. If outside metering is used, a meter base of proper ampere rating shall be a part of the entrance, installed not more than five feet above grade. Overload tripping devices and current transformer used for metering must be enclosed in metal cabinet conforming to code regulations. It shall be the duty of the owner of the electrical equipment to maintain it in such manner that it will conform to the North Dakota state safety code. (Ord. 96 §21, 1960).

17.12.220 Over current devices. Over current devices installed on each circuit shall comply with the requirements of the National Electric Code N.F.P.A. no 70, ASA-C1 covered under Article 240, dated 1959, or later; revised copies of which are on file in the office of the city auditor and are hereby adopted and made a part of this chapter by reference. (Ord. 96 §22, 1960).

17.12.230 Regulations in bathrooms and kitchens. In bathrooms, kitchens and all other places where there is danger of electric shock because of the presence of water and piping, no electric switch
shall be placed closer than two feet to the nearest point of contact with any sink, tub or other container of water, and no electric light shall be so installed that it can be switched off or on by any person while in contact with a sink, tub or other container of water. In all buildings hereafter erected, air plug in receptacles in kitchens, laundries, basements, and bathrooms must be of the polarized type; all outlet boxes shall be permanently grounded. (Ord. 96 §23, 1960).

17.12.240 Erecting antenna. It shall be unlawful to attach or connect any wireless telegraph, telephone, or similar apparatus or appliance to the electric wiring of any building, or to any electric distribution system, except it be of a type approved by the person furnishing power to such wiring or distribution system. No wires or antennas for wireless system or for any other purpose, shall be placed upon any building, or strung there from, or otherwise placed or supported, an such manner that the breaking of any part thereof, or the failure of any support or such wires or antennae, might cause the same to come in contact with any portion of an electric transmission or distribution system having an electrical potential of six hundred volts or more. The electrical inspector shall have the authority to order the removal of any such wires or antennae as now constitute a menace to life, and failure of the owner thereof promptly to obey such order shall constitute a violation of this chapter. A permit must be obtained from the city auditor before any antenna for radio, television or wireless apparatus may be erected, relocated or removed from the city. (Ord. 96 §24, 1960).

17.12.250 Liability. This chapter shall not be construed to relieve from or lesson the responsibility of liability of any party owning, operating, controlling or installing any electric wiring, electric devices or electric equipment for damage to any person or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspection authorized herein or certificate of approval issued as herein provided. (Ord. 96 §25, 1960).

17.12.260 Copy on file. One copy of the North Dakota state electrical code and one copy of the national electrical code shall be kept on file by the city auditor for inspection by and use of the public and shall be marked with the words "City of Rugby, North Dakota, Official Copy." (Ord. 96 §26, 1960).

17.12.270 Enforcement. It shall be the duty of the electrical inspector to enforce the provisions of this code and to make the inspections and tests required hereunder. (Ord. 96 §27, 1960).

17.12.280 Right of entry. The electrical inspector shall, after the proper identification, have the right to enter any premises for the purpose of inspecting any electrical system at such times as may reasonably necessary to protect the public safety. (Ord. 96 §28, 1960).
Chapter 17.16

AREAS OF SPECIAL FLOOD HAZARD

* Prior ordinance history: Ord. 294.

Sections:

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17.16.000 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVE

17.16.010 Statutory Authorization

The Legislature of the State of North Dakota has in North Dakota Century Code, Chapters 40-47, 11-33 and 58-03, delegated responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the City Council of the City of Rugby, North Dakota does ordain as follows:
17.16.020 Findings of Fact

(1) The flood hazard areas of Rugby are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety, and general welfare.
(2) Flood losses caused by the cumulative effect of obstructions in the special flood hazard areas cause increases in flood heights and velocities. Inadequately floodproofed, elevated or otherwise unprotected structures also contribute to the flood loss. (Ord. 356, 2006)

17.16.030 Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

(1) To protect human life and health;
(2) To minimize expenditure of public money for costly flood control projects;
(3) To minimize the need for rescue and relief efforts associated with flooding, and generally undertaken at the expense of the general public;
(4) To minimize prolonged business interruptions;
(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in special flood hazard areas;
(6) To help maintain a stable tax base by providing for the second use and development of special flood hazard areas so as to minimize future flood blight areas;
(7) To ensure that potential buyers are notified that property is in a special flood hazard area; and,
(8) To ensure that those who occupy the special flood hazard areas assume responsibility for their actions. (Ord. 356, 2006)

17.16.040 Methods of Reducing Flood Losses. In order to accomplish its purposes, this ordinance includes methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
(4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 356, 2006)

17.16.100 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Appeal" means a request for a review of the City Auditor/Administrator’s interpretation of any provision of this ordinance or a request for a variance.

"Base flood or 100-year flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation" (BFE) means the height of the base flood or 100-year flood usually in feet above mean sea level.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
“Best Available Data” (BAD) means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).

“Conveyance or hydraulic conveyance” means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the special flood hazard area.

“Flood Insurance Rate Map” (FIRM) means the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zone A, AE, AO, AH, A1-A30 or A-99.

“Flood Insurance Study” (FIS) means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or from the unusual and rapid accumulation or runoff of surface waters from any source.

“Floodproofing” (Dry) means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.

“Floodway or regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Lowest floor” means the lowest floor of a structure including the basement.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”, but does include “mobile home”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“New construction” means structures for which the “start of construction” commenced on or after the effective date of this ordinance.

“Reasonably safe from flooding” means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

“Recreational vehicle” means a vehicle which is:

(a) built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) designed to be self-propelled or permanently towable by a light duty truck;
(d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to;
(e) travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

“Special Flood Hazard Area” (SFHA) means an area of land that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.
“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

“Structure” means a walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(1) Before the improvement or repair is started; or
(2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

(1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance” means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance. (Ord. 356, 2006)

17.16.200  GENERAL PROVISIONS

17.16.210  Lands to Which this Ordinance Applies. This ordinance shall apply to all special flood hazard areas within the jurisdiction of the City of Rugby (Ord. 356, 2006)

17.16.220  Basis for Establishing the Special Flood Hazard Areas. The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study for the City of Rugby, North Dakota dated March 16, 1992, “with an accompanying City of Rugby, North Dakota Flood Insurance Rate Map and all subsequent revisions thereto is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file in the City Auditor/Administrator's Office, located at City Hall, 223 South Main Avenue, Rugby, North Dakota, 58368. (Ord. 356, 2006)

17.16.230  Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. (Ord. 356, 2006)

17.16.240  Greater Restrictions. This ordinance is not intended to repeal, remedy, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 356, 2006)
17.16.250 Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

(1) Considered as minimum requirements;
(2) Liberally construed in favor of the governing body; and,
(3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 356, 2006)

17.16.260 Warning and Disclaimer or Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Rugby, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder. (Ord. 356, 2006)

17.16.300 ADMINISTRATION

17.16.310 Establishment of Development Permit. A development permit shall be obtained before construction or development begins within any special flood hazard area established in Section 3.2. Application for a development permit shall be made on forms furnished by the City Auditor/Administrator and may include, but not be limited to: plans in duplicate, drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level, of the lowest floor of all structures;
(2) Elevation in relation to mean sea level to which any structure has been floodproofed;
(3) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 5.2-2; and,
(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 356, 2006)

17.16.320 Designation of the City Auditor/Administrator. The City Auditor/Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions. (Ord. 356, 2006)

17.16.330 Duties and Responsibilities of the City Auditor/Administrator. Duties of the City Auditor/Administrator shall include, but not be limited to:

17.16.330-01 Permit Review
(1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
(2) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
(3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.3(1) are met. (Ord. 356, 2006)

17.16.330-02 Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 3.2. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS, the City Auditor/Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available (known as best available data) from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other development in the floodplain are administered in accordance with Section 5.2, SPECIFIC STANDARDS. (Ord. 356, 2006)
17.16.330-03 Information to be Obtained and Maintained.
(1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
(2) For all new or substantially improved floodproofed structures:
   (i) obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed;
   (ii) maintain the floodproofing certifications required in Section 4.1(3).
(3) Maintain for public inspection all records pertaining to the provisions of this ordinance. (Ord. 356, 2006)

17.16.330-04 Alteration of Watercourses. The responsible person shall:
(1) Notify nearby communities, water resource districts, and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and,
(3) Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage. (Ord. 356, 2006)

17.16.330-05 Interpretation of Flood Insurance Rate Map (FIRM) Boundaries. Make interpretation where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.4. (Ord. 356, 2006)

17.16.400 VARIANCE PROCEDURE

17.16.410-01 Appeal Board
(1) The Planning & Zoning Committee as established by the City of Rugby, shall hear and decide appeals and requests for variances from the requirements of this ordinance.
(2) The Planning & Zoning Committee shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Auditor/Administrator in the enforcement or administration of this ordinance.
(3) Those aggrieved by the decision of the Planning & Zoning Committee, or any taxpayer, may appeal such decision to the Northeast Judicial District as provided in NDCC 40-47-11, 11-33-12. or 58-03-14.
(4) In passing upon such applications, the Planning & Zoning Committee shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance; and:
   (i) the danger that materials may be swept onto other lands to the injury of others;
   (ii) the danger to life and property due to flooding or erosion damage;
   (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
   (iv) the importance of the services provided by the proposed facility to the community;
   (v) the necessity to the facility of a waterfront location, where applicable;
   (vi) the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
   (vii) the compatibility of the proposed use with existing and anticipated development;
   (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
   (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
   (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
(xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre to less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.4-1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(6) Upon consideration of the factors of Section 4.4-1(4) and the purposes of this ordinance, the Planning & Zoning Committee may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(7) The City Auditor/Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (Ord. 356, 2006)

17.16.410-02 Conditions for Variances
(1) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(2) Variances shall not be issued within the identified floodplain if any increase in flood levels during the base flood discharge would result.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued upon:
   (i) a showing of good and sufficient cause;
   (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
   (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in Section 4.4-1(4), or conflict with existing local laws or ordinances.

(5) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 356, 2006)

17.16.500 PROVISIONS FOR FLOOD HAZARD REDUCTION

17.16.510 GENERAL STANDARDS. In all special flood hazard areas the following standards are required:

17.16.510-01 Anchoring
(1) All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. (Ord. 356, 2006)

17.16.510-02 Construction Materials and Methods
(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. (Ord. 356, 2006)
17.16.510-03  Utilities
(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 356, 2006)

17.16.510-04  Subdivision Proposals
(1) All subdivision proposals shall be consistent with the need to minimize flood damage;
(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less). (Ord. 356, 2006)

17.16.520  Specific Standards. In all special flood hazard areas where base flood elevation data have been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS or Section 4.3-2, Use of Other Base Flood Data, the following provisions are required: (Ord. 356, 2006)

17.16.520-01  Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation. (Ord. 356, 2006)

17.16.520-02  Nonresidential Construction. Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation or together with attendant utility and sanitary facilities shall:

(1) Be floodproofed to at least two feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water.
(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
(3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 4.3-3(2). (Ord. 356, 2006)

17.16.520-03  Manufactured Homes
(1) Manufactured homes shall be anchored in accordance with Section 5.1-1(2).
(2) All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated on fill to at least one foot above the base flood elevation, and is securely anchored to an adequately anchored foundation system. (Ord. 356, 2006)

17.16.530  Flood Ways. Located within the special flood hazard areas established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
(2) If Section 5.3(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION. (Ord. 356, 2006)

17.16.600 PENALTIES FOR VIOLATIONS
(1) Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations on conditions and safeguards established in connection with grants or variances or conditional uses, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be punished by a fine not exceeding $500 or by imprisonment not to exceed 30 days or by both such fine and imprisonment for each such offense, and in addition shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(2) Nothing herein contained shall prevent the Rugby City Council from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 356, 2006)
TITLE 19
ZONING *

* For state law authorizing the enactment of a zoning ordinance, see N.D.C.C. §40-05-02(13). See also N.D.C.C., Chapter 40-47--City Zoning. For fire limit boundaries, see Section 17.04.100

CHAPTER 40-47
CITY ZONING

40-47-01.1. Extraterritorial zoning Mediation — Determination by administrative law judge.

40-47-01.2. Agreements to not oppose annexation void.

40-47-03. Regulation for zoning made for what purposes.

40-47-11. Determination of board of adjustment reviewable

40-47-01. Cities may zone — Application of regulations.

Compliance with Regulations.
Public notice of meeting to consider rezoning portions of city industrial park was adequate under city ordinance for amending zoning plan, and provided fair notice to plaintiffs. Bigwood v. City of Wahpeton, 1997 ND 124, 565 N.W.2d 498 (1997).

Enforcement.
It is within the prerogative of the local authorities to determine the means and methods for enforcing city zoning ordinances, and a municipal government may confer standing upon its citizens or property owners to aid in zoning enforcement. Miller v. City of Rugby Planning & Zoning Commn, 421 N.W.2d 480 (N.D. 1988).

Improper Alteration of Permit.
Where city gave property owner a conditional-use permit after a review process initiated by owner and during which owner disclosed his intent to use and rent automatic weapons in his commercial firing range; owner made substantial expenditures—which he would not have made but for the city’s approval of the conditional-use permit; and city subsequently altered the permit by amending the ordinance regulating commercial firing ranges, and did not support that alteration by making a record of changed circumstances or the existence of a public hazard unknown and not considered during the original permit process, the record supported the trial court’s conclusion that the city was stopped from denying damages to owner in these unique circumstances. Buegel v. City of Grand Forks, 475 N.W.2d 133 (ND. 1991).

Collateral References.
Validity construction, and effect of statute requiring consultation with, or approval of local governmental unit prior to locating group home, halfway house, or similar community residence for the mentally ill, 51 A.L.R. 4th 1096.
What constitutes “incidental” or “accessory” use of property zoned, and primarily used, for business or commercial purposes, 60 A.L.R. 4th 907.
Validity of zoning laws setting minimum lot size requirements, 1 A.L.R. 5th 622.
Construction and application of zoning laws setting minimum lot size requirements, 2 A.L.R. 5th 553.
Construction and application of terms “agricultural,” “farm,” “farming,” or the like, in zoning regulations, 38 A.E.R. 5th 357.
Activities in preparation for building as establishing valid nonconforming use or vested right to engage in construction for intended use, 38 A.L.R. 5th 737.
Determination whether zoning or rezoning of particular parcel constitutes illegal spot zoning, 73 A.L.R. 5th 223

40-47-01,1. Extraterritorial zoning — Mediation — Determination by administrative law judge.

1. A city may, by ordinance, extend the application of a city’s zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within the following distance of the corporate limits of the city:
   a. One mile [1.61 kilometers] if the city has a population of less than five thousand.
   b. Two miles [3.22 kilometers] if the city has a population of five thousand or more, but less than twenty-five thousand.
   c. Four miles [6.44 kilometers] if the city has a population of twenty-five thousand or more.

2. If a quarter quarter section line divides a platted lot and the majority of that platted lot lies within the quarter quarter section, a city may apply its extraterritorial zoning authority to the remainder of that platted lot. If the majority of the platted lot lies outside the quarter quarter section, the city may not apply its extraterritorial zoning authority to any of that platted lot.

3. A city exercising its extraterritorial zoning authority shall hold a zoning transition meeting if the territory to be extraterritorially zoned is currently zoned. The city’s zoning or planning commission shall provide at least fourteen days’ notice of the meeting to the zoning board or boards of all political subdivisions losing their partial zoning authority. The purpose of the zoning transition meeting is to review existing zoning rules, regulations, and restrictions currently in place in the territory to be extraterritorially zoned and to plan for an orderly transition. The zoning transition meeting must take place before the city’s adoption of an ordinance exercising extraterritorial zoning.

4. If two or more cities have boundaries at a distance where there is an overlap of extraterritorial zoning authority under this section, the governing bodies of the cities may enter into an agreement regarding the extraterritorial zoning authority of each city. The agreement must be for a specific term and is binding upon the cities unless the governing bodies of the cities agree to amend or rescind the agreement or unless determined otherwise by an administrative law judge in accordance with this chapter. If a dispute arises concerning the extraterritorial zoning authority of a city and the governing bodies of the cities involved fail to resolve the dispute, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor, one member of the governing body of each city, and one member of the planning commission of each city who resides outside the corporate city limits. The governor’s appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile.

5. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the office of administrative hearings to appoint an administrative law judge to determine the extraterritorial zoning authority of the cities in the disputed area. A hearing may not be held until after at least two weeks’ written notice has been given to the governing bodies of the cities involved in the dispute. At the hearing, the governor’s appointee who mediated the meetings under subsection 4 shall provide information to the administrative law judge on the dispute between the cities involved and any proposed resolutions or recommendations made by a majority of the committee members. Any resident of, or person owning property in, a city involved in the dispute or the unincorporated territory that is the subject of the proposed
extraterritorial zoning, a representative of such a resident or property owner, and any representative of a city involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge is binding upon all the cities involved in the dispute and remains effective until the governing bodies of the cities agree to a change in the zoning authority of the cities. The governing body of a city may request a review of a decision of an administrative law judge due to changed circumstances at any time ten years after the decision has become final. An administrative law judge shall consider the following factors in making a decision under this subsection:

a. The proportional extraterritorial zoning authority of the cities involved in the dispute;

b. The proximity of the land in dispute to the corporate limits of each city involved;

c. The proximity of the land in dispute to developed property in the cities involved;

d. Whether any of the cities has exercised extraterritorial zoning authority over the disputed land;

e. Whether natural boundaries such as rivers, lakes, highways, or other physical characteristics affecting the land are present;

f. The growth pattern of the cities involved in the dispute; and

g. Any other factor determined to be relevant by the administrative law judge.

6. For purposes of this section, the population of a city must be determined by the last official regular or special federal census. If a city has incorporated after a census, the population of the city must be determined by a census taken in accordance with chapter 40-22.

7. When a portion of the city is attached to the bulk of the city by a strip of land less than one hundred feet wide, that portion and strip of land must be disregarded when determining the extraterritorial zoning limits of the city. This subsection does not affect the ability of a city to zone land within its city limits.

8. For the purposes of this section, a quarter quarter section shall be determined in the manner provided by 2 Stat. 313 [43 U.S.C. 752]. When appropriate, the phrase “quarter quarter section” refers to the equivalent government lot.


Effective Date.

The 2001 amendment of this section by section 11 of chapter 55, S.L. 2001 became effective August 1, 2001.

The 1999 amendment of this section by section 1 of chapter 367, S.L. 1999 became effective August 1, 1999.

The 1997 amendment of this section by section 1 of chapter 354, S.L. 1997 became effective August 1, 1997.
Chapters:

19.02 General Provisions
19.04 Definitions
19.06 District and Boundaries
19.08 Nonconformities
19.10 A Agricultural District
19.12 R-1 Single-Family Residential District
19.14 R-2 Multiple-Family Dwelling District
19.16 R-3 Mobile Home Park District
19.18 R-4 Mobile Home District
19.20 C-I Central Business District
19.22 C-2 General Commercial District
19.24 I-1 Light Industrial District
19.26 I-2 Heavy Industrial District
19.28 I-3 Industrial Park District
19.30 Signs
19.32 Off-Street Parking and Loading Requirements
19.34 Supplementary District Regulations
19.36 Special Permit Uses and Structures
19.38 Conditional Uses
19.40 Appeals and Variances
19.42 Amendments
19.44 Administration and Enforcement
Chapter 19.02

GENERAL PROVISIONS

Sections:

19.02.010 Short title. This title shall be known, cited and referred to as the “zoning ordinance of the city of Rugby, North Dakota.” (Ord. 304 Art. 1, 1990).

19.02.020 Purpose. These regulations have been made in accordance with the policies and recommendations set forth in a duly adopted comprehensive plan and have been enacted with the following purposes in mind:
A. Lessen congestion in the streets;
B. Secure safety from fire, panic and other dangers;
C. Promote health and the general welfare;
D. Provide adequate light and air;
E. Prevent the overcrowding of land;
F. Avoid undue concentration of population;
G. Facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements. (Ord. 304 Art. 2, 1990).

19.02.030 Interpretation and scope. In the interpretation and scope of this title, the provisions of this title shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. Where this title imposes a greater restriction upon land, buildings, or structures than is imposed or required by existing provisions of law, ordinance, contract or deed, or resolutions the provisions of this title shall control. (Ord. 304 Art. 3, 1990).

19.02.040 Conflict with other laws. In their interpretation and application, the provisions of this title shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, comfort, convenience and general welfare. Wherever the requirements of this title are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern. Nothing in this title shall be construed as to amend, alter, or supersede regulations included in Ordinance 294 entitled, “An ordinance to amend, reenact and add ordinance number 252, relating to flood damage prevention, providing for penalties thereof, and repealing all provisions of Ordinance 254 in conflict herewith.” (Ord. 304 Art 22, 1990).

19.02.050 Expanded Zoning. The City’s zoning authority is hereby extended to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within one mile of the corporate limits of the City of Rugby. This is in conformity with the North Dakota Century Code Section 40-47-01.1 as amended by the State of North Dakota. (Ord. 347, 2004)
Chapter 19.04

DEFINITIONS

Sections:

19.04.010  Generally.
19.04.020  Abut.
19.04.030  Access.
19.04.040  Accessory buildings and uses.
19.04.050  Adult bookstore.
19.04.060  Adult cinema.
19.04.070  Adult entertainment center.
19.04.080  Alley.
19.04.090  Alteration.
19.04.100  Animal hospital or clinic.
19.04.110  Annexation.
19.04.120  Apartment.
19.04.130  Basement.
19.04.140  Boarding house.
19.04.150  Building.
19.04.160  Building, accessory.
19.04.170  Building, height of.
19.04.180  Building official.
19.04.190  Car wash.
19.04.200  Cellar.
19.04.220  Child care facility (public or private).
19.04.230  Clinic.
19.04.240  Comprehensive plan.
19.04.250  Conditional use.
19.04.260  Development.
19.04.270  Developmentally disabled person.
19.04.280  District.
19.04.290  Dormitory.
19.04.300  Driveway.
19.04.310  Driving aisle.
19.04.320  Dwelling.
19.04.330  Dwelling, multiple family.
19.04.350  Dwelling, two—family.
19.04.360  Dwelling unit.
19.04.370  Family.
19.04.380  Family child care home
19.04.390  Farm.
19.04.400  Farm residence.
19.04.410  Floor area.
19.04.420  Frontage.
19.04.430  Garage, private.
19.04.440  Garage, public.
19.04.450  Garage, storage.
19.04.460  General agricultural or farm operations.
19.04.470  Governing body.
19.04.480  Group child care home (facility).
19.04.490  Home occupation.
19.04.500  Hospital.
19.04.510   Hotel or motel.
19.04.520   Institution.
19.04.530   Junk yard.
19.04.540   Kennel.
19.04.550   Laboratory, medical.
19.04.560   Laundry (self-service).
19.04.570   Laundry.
19.04.530   Licensed group homes.
19.04.590   Livestock.
19.04.600   Livestock feeding yard.
19.04.610   Livestock sales yard.
19.04.620   Lodging house.
19.04.630   Lot area.
19.04.640   Lot or parcel.
19.04.650   Lot, corner.
19.04.660   Lot coverage.
19.04.670   Lot, depth of.
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19.04.690   Lot, interior.
19.04.700   Lot of record.
19.04.710   Lot width.
19.04.720   Manufacture.
19.04.730   Medical, dental or health clinic.
19.04.740   Mobile home.
19.04.750   Mobile home park.
19.04.760   Nonconforming uses of building.
19.04.770   Official zoning map.
19.04.780   Parcel.
19.04.790   Park.
19.04.300   Parking lot.
19.04.810   Parking space.
19.04.820   Permitted use.
19.04.830   Planning commission.
19.04.840   Principal use.
19.04.850   Professional office.
19.04.860   Prohibited use.
19.04.870   Public hearing.
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19.04.890   Quasi-institutional homes.
19.04.900   Recreational vehicle.
19.04.910   Recreational vehicle park.
19.04.920   Restaurant.
19.04.930   Restaurant, drive-in.
19.04.940   Rooming house.
19.04.950   Satellite dish.
19.04.960   School.
19.04.970   Service station
19.04.980   Setback.
19.04.990   Sign.
19.04.1000  Sign, awning.
19.04.1010  Sign, billboard.
19.04.1020  Sign, bulletin board.
19.04.1030  Sign, electric awning.
19.04.1040  Sign face.
19.04.1050  Sign, freestanding.
19.04.1060  Sign, illuminated.
19.04.1070   Sign, marquee.
19.04.1080   Sign, nonconforming.
19.04.1090   Sign, portable.
19.04.1100   Sign, projecting.
19.04.1110   Sign, roof.
19.04.1120   Sign, temporary.
19.04.1130   Sign, wall.
19.04.1140   Specified anatomical areas.
19.04.1150   Specified sexual activities.
19.04.1160   Story.
19.04.1170   Story, half.
19.04.1180   Street.
19.04.1190   Street, arterial.
19.04.1200   Street, collector.
19.04.1210   Street, line.
19.04.1220   Street, local.
19.04.1230   Street network.
19.04.1240   Structure.
19.04.1250   structural alterations
19.04.1260   Subdivision.
19.04.1270   Substantial improvement.
19.04.1280   Supplemental parental care.
19.04.1290   Tavern.
19.04.1300   Telecommunications dish.
19.04.1310   Temporary use.
19.04.1320   Tract.
19.04.1330   Use.
19.04.1340   Variance.
19.04.1350   Yard.
19.04.1360   Yard, front.
19.04.1370   Yard, rear.
19.04.1380   Yard, side.
19.04.1390   Zoning district.

19.04.010   Generally. The following words, terms; and phrases are defined and shall be interpreted in the same fashion throughout this title. The word “including” shall mean “including but not limited to.” The word “shall” is mandatory. The word “may” is permissive. Words used in the present tense shall include the future. Words and numbers used singularly shall include the plural and the plural shall include the singular. The word “person” includes a corporation, members of a partnership, or other business organization, a committee, board, trustee, receiver, agent, or other representative. The words “use,” “used,” “occupy,” or “occupied” as applied to any land or building shall be construed to include the words “intended,” “arranged,” or “designed” to be used or occupied. Words or terms not herein defined shall have their ordinary meaning in relation to the context. (Ord. 304 Art. 4(part), 1990).

19.04.020   Abut. “Abut” means to physically touch or border upon; to share a common property line. (Ord. 304 Art. 4(part), 1990).


19.04.040   Accessory buildings and uses. “Accessory buildings and uses” means a subordinate building or portion of the main building, the use of which is incidental to that of the main building or to the main use on the premises. An accessory use is one which is incidental to the main use of the premises. (Ord. 304 Art. 4(part), 1990).
19.04.050  **Adult bookstore.**  “Adult bookstore” means an enclosed building having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.  (Ord. 304 Art. 4(part), 1990).

19.04.060  **Adult cinema.**  “Adult cinema” means an enclosed building used on a regular basis for presenting pictorial materials or other visual images by way direct, or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons therein in return for the payment of a consideration, irrespective of the number of patrons who may be able to view the presentation at one time.  (Ord. 304 Art. 4(part), 1990).

19.04.070  **Adult entertainment center.**  “Adult entertainment center” means an adult bookstore or adult cinema, or both.  (Ord. 304 Art. 4(part), 1990).

19.04.080  **Alley.**  “Alley” means a way which affords only a secondary means of access to abutting property.  (Ord. 304 Art. 4(part), 1990).

19.04.090  **Alteration.**  “Alteration” means any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions; any change in doors, windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically; or the moving of a building or structure from one location to another.  (Ord. 304 Art. 4(part), 1990).

19.04.100  **Animal hospital or clinic.**  “Animal hospital or clinic” means a place where animals or pets are given medical treatment and the boarding of animals is limited to short term care incidental to the hospital or clinic use.  (Ord. 304 Art. 4(part), 1990).

19.04.110  **Annexation.**  “Annexation” means the incorporation of land area into the city with a resulting change in the boundaries of the city.  (Ord. 304 Art. 4(part), 1990).

19.04.120  **Apartment.**  “Apartment” means a room or suite of rooms in a multiple family dwelling used or designed for occupancy by a single-family unit.  (Ord. 304 Art. 4(part), 1990).

19.04.130  **Basement.**  “Basement” means a story having part, but not less than one-half, of its height below grade.  (Ord. 304 Art. 4(part), 1990).


19.04.150  **Building.**  “Building” means a structure having a roof supported by columns or walls.  (Ord. 304 Art. 4(part), 1990).

19.04.160  **Building, accessory.**  “Accessory building” means a subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.  (Ord. 304 Art. 4(part), 1990).

19.04.170  **Building, height of.**  “Height of building” means the vertical distance from the grade to the highest point of the coping of a flat roof or the deck lines of a mansard roof or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.  (Ord. 304 Art. 4(part), 1990).

19.04.180  **Building official.**  “Building official” means the person or persons designated by the governing body to administer this zoning title, whether such person or persons be entitled building official, building inspector, administrative official, administrative officer or enforcing officer.  (Ord. 304 Art. 4(part), 1990).

19.04.190  **Car wash.**  “Car wash” means an establishment having facilities designed or used
exclusively for washing or cleaning motor vehicles. (Ord. 304 Art. 4(part), 1990).


19.04.210 Child care center. “Child care center” means a child care facility where supplemental parental care is regularly provided to nineteen or more children which is subject to requirements as set forth in Section 50-11.1 of the North Dakota Century Code. (Ord. 304 Art. 4(part), 1990).

19.04.220 Child care facility (public or private). “Child care facility (public or private)” means any facility where supplemental parental care is regularly provided, whether the facility is known as a day care home, day care center, day nursery, nursery school, kindergarten, child play school, progressive school, child development center, preschool, or known by any other name. (Ord. 304 Art. 4(part), 1990).

19.04.230 Clinic. “Clinic” means an establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, or social workers and where patients are not usually lodged overnight. (Ord. 304 Art. 4(part), 1990).


19.04.250 Conditional use. “Conditional use” means a use which generally would not be suitable in a particular zoning district, which would be acceptable under certain circumstances. The permit shall be granted for a particular use and not for a particular person or firm. (Ord. 304 Art. 4(part), 1990).


19.04.270 Developmentally disabled person. “Developmentally disabled person” means a person with a severe, chronic disability which:

1. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
2. Is manifested before the person attains age twenty-two;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major life activity:
   A. Self-care,
   B. Receptive and expressive language,
   C. Learning,
   D. Mobility,
   E. Self-direction,
   F. Capacity for independent living,
   G. Economic sufficiency, and
5. Reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are lifelong or extended duration and are individually planned and coordinated. (Ord. 304 Art. 4(part), 1990).

19.04.280 District. “District” means a section or sections of the city and the extraterritorial area for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform. (Ord. 304 Art. 4(part), 1990).

19.04.290 Dormitory. “Dormitory” means a building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, orphanage, convent, monastery or other similar institutional use. (Ord. 304 Art. 4(part), 1990).

19.04.300 Driveway. “Driveway” means a private roadway providing access for vehicles to a parking
space, garage, dwelling or other structure. (Ord. 304 Art. 4(part), 1990).

19.04.310 Driving aisle. “Driving aisle” means in a parking lot that portion of a lot which allows ingress and egress of vehicles from a public or private right-of-way to the parking stall. (Ord. 304 Art. 4(part), 1990).

19.04.320 Dwelling. “Dwelling” means any building or portion thereof which is designed and used exclusively for residential purposes. (Ord. 304 Art. 4(part), 1990).
19.04.330 Dwelling, multiple family. “Multiple family dwelling” means a building having accommodations for and occupied exclusively by more than two families. (Ord. 304 Art. 4(part), 1990).


19.04.360 Dwelling unit. “Dwelling unit” means one or more rooms in a dwelling designed for occupancy by only one family unit. (Ord. 304 Art. 4(part), 1990).

19.04.370 Family. “Family” means one or more persons related by blood, marriage, or adoption occupying a dwelling unit as members of a single housekeeping organization. (Ord. 304 Art. 4(part), 1990).

19.04.380 Family child care home. “Family child care home” means an occupied private residence in which supplemental parental care is regularly provided for no more than seven children from more than one family or no more than four children ages two and under. (Ord. 304 Art. 4(part), 1990).


19.04.400 Farm residence. “Farm residence” means a residential dwelling located on and directly associated with a farm. (Ord. 304 Art. 4(part), 1990).

19.04.410 Floor area. “Floor area” means the total number of square feet of floor space within the existing walls of a building, not including basements, carports, or garages. (Ord. 304 Art. 4(part), 1990).

19.04.420 Frontage. “Frontage” means all the property on one side of a street between two intersecting streets (crossing or terminating) measured along the property line of the street. Where a street is dead ended, the frontage shall be considered as all that property abutting on one side between an intersecting street and the dead end of the street. (Ord. 304 Art. 4(part), 1990).

19.04.430 Garage, private. “Private garage” means an accessory building designed or used for the storage of not more than four motor driven vehicles owned and used by the occupants of the building to which it is accessory. (Ord. 304 Art. 4(part), 1990).

19.04.440 Garage, public. “Public garage” means a building, or portion thereof, other than private or storage garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor driven vehicles. (Ord. 304 Art. 4(part), 1990).

19.04.450 Garage, storage. “Storage garage” means a building, or portion thereof, designed or used exclusively for housing four or more motor-driven vehicles. (Ord. 304 Art. 4(part), 1990).

19.04.460 General agricultural or farm operations. “General agricultural or farm operations” means
the current employment of land for the purposes of obtaining a profit in money by the raising, harvesting, and selling crops or by the feeding, breeding, management and sale of, or the produce of livestock, poultry, fur-bearing animals or honey bees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or combination thereof. Farm use includes the preparation and storage of the products raised on such land for man’s use and animal use and disposal by marketing or otherwise. It includes the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use. (Ord. 304 Art. 4(part), 1990).


19.04.480 Group child care home (facility). “Group child care home (facility)” means a child care facility where supplemental parental care is regularly provided for eight to eighteen children, which is subject to requirements as set forth in Chapter 50-11.1 of the North Dakota Century Code. (Ord. 304 Art. 4(part), 1990).

19.04.490 Home occupation. “Home occupation” means an occupation or activity carried on in the principal building which meets all the following conditions:

1. The occupation is carried on by a member or members of the immediate family residing on the premises;
2. The occupation is customarily incidental to the use of the premises as a dwelling place;
3. Not more than one nonilluminated nameplate is used. The nameplate shall be attached to the building and shall not exceed two square feet in area;
4. The occupation does not occupy more than twenty-five percent of the floor area of one floor of the principal building;
5. No display will indicate from the exterior of the building that the premises are being used in part for any purpose other than a dwelling;
6. There is no commodity displayed or stored on the premises except that which is prepared on the premises;
7. No mechanical equipment is used except of a type that is normally used for purely domestic or household purposes;
8. No alteration of the principal building changes the character thereof as a dwelling;
9. The following are declared to be customary home occupations as intended by this section:
   A. Office for the emergency consultation and treatment but not the general practice of a physician, surgeon, dentist, lawyer, clergyman and other recognized professions,
   B. Office for the general practice of a lawyer, clergyman, accountant, and other recognized professions,
   C. Office for the emergency consultation and treatment but not for the general practice of a physician, surgeon, dentist, or other medical professions,
   D. Office and equipment storage area for electricians, plumbers, carpenters, and other such occupations in which the work is performed off-site from the office,
   E. Dressmaking, sewing, millinery and similar occupations; artist, sculptor and similar occupations,
   F. The giving of voice, piano or other musical instrument lessons;
10. The determination as to whether or not a particular profession or occupation is similar to those enumerated herein and is permissible as a home occupation shall be made by the planning commission, after notification by the individual requesting such determination to all property owners located within three hundred feet of the property where the home occupation will be conducted. Evidence of such notification shall be presented to the planning commission prior to consideration of the request for determination of home occupation;
11. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
19.04.500 Hospital. "Hospital" means an establishment used primarily for in-patient care and provides health, medical, mental, and surgical care of the sick or injured. (Ord. 304 Art. 4(part), 1990).

19.04.510 Hotel or motel. "Hotel or motel" means a building used as a transient abiding place for persons who are lodged for compensation. (Ord. 304 Art. 4(part), 1990).


19.04.530 Junk yard. "Junk yard" means an area of more than two hundred square feet or any area not more than fifty feet from any street, used for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials or goods, used for dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. (Ord. 304 Art. 4(part), 1990).

19.04.540 Kennel. "Kennel" means an establishment, in which more than two dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained, or sold. (Ord. 304 Art. 4(part), 1990).

19.04.550 Laboratory, medical. "Medical laboratory" means an establishment which provides bacteriological, biological, medical, x-ray, pathological and other similar analytical or diagnostic services. (Ord. 304 Art. 4(part), 1990).


19.04.580 Licensed group homes. "Licensed group homes" means any community residential facility, foster home, family care facility, or other similar home for developmentally disabled persons. (Ord. 304 Art. 4(part), 1990).

19.04.590 Livestock. "Livestock" means domestic animals of types customarily raised or kept on farms for profit or other purposes. (Ord. 304 Art. 4(part), 1990).

19.04.600 Livestock feeding yard. "Livestock feeding yard" means an enclosure or structure designed or used for the purposes of concentrated feeding or fattening of livestock for marketing or for dairying purposes. (Ord. 304 Art. 4(part), 1990).

19.04.610 Livestock sales yard. "Livestock sales yard" means an enclosure or structure designed or used for holding livestock for purposes of sale or transfer by auction, consignment, or other means. (Ord. 304 Art. 4(part), 1990).

19.04.620 Lodging house. "Lodging house" means a building or place where lodging or lodging and boarding is provided (or equipped to provide lodging regularly) by prearrangement for definite periods, for compensation, for three or more persons in contradistinction to hotels open to transients. (Ord. 304 Art. 4(part), 1990).

19.04.630 Lot area. "Lot area" means the total area within the lot lines. (Ord. 304 Art. 4(part), 1990).

19.04.640 Lot or parcel. "Lot or parcel" means a piece, plot, or area of land, of contiguous assemblage us established by survey, plat or deed, occupied or to be occupied by a building, or a unit group of buildings, and/or accessory buildings thereto or for other use, together with such open
spaces as may be required under these regulations and having its frontage on a street or officially approved place. (Ord. 304 Art. 4(part), 1990).

19.04.650 Lot, corner. “Corner lot” means a lot abutting upon two or more streets at their intersection. A corner lot has no rear yard, but only front or side yards. (Ord. 304 Art. 4(part), 1990).

19.04.660 Lot coverage. “Lot coverage” means the total area of building expressed as a percentage of the total lot. (Ord. 304 Art. 4(part), 1990).

19.04.670 Lot, depth of. “Depth of lot” means the mean horizontal distance between the front and rear lot lines. (Ord. 304 Art. 4(part), 1990).

19.04.630 Lot, double frontage. “Double frontage lot” means lots which extend continuously between two parallel (or approximately parallel) streets bounding a block. A block containing double frontage lots is composed of one rather than two tiers of lots. A double frontage lot has no rear yard, but only front or side yards. (Ord. 304 Art 4(part), 1990).


19.04.700 Lot of record. “Lot of record” means a lot, which is part of a subdivision, the plat of which has been recorded in the officer of the register of deeds of Pierce County, or a lot described by metes and bounds, the description of which has been recorded in the office of the register of deeds of Pierce County, prior to the adoption of these regulations. (Ord. 304 Art. 4(part), 1990).

19.04.710 Lot width. “Lot width” means the distance as measured by a straight line, between side lot lines at the point of intersection with the building line. (Ord. 304 Art. 4(part), 1990).


19.04.740 Mobile home. “Mobile home” means a single or multifamily residential unit built on a permanent chassis which is designed to be transported and can support long term occupancy and requires only minor work after arrival on the site prior to occupancy, in contradistinction to a prefabricated living unit designed to become a structure. (Ord. 304 Art. 4(part), 1990).

19.04.750 Mobile home park. “Mobile home park” means a parcel of land used as a mobile home development with two or more mobile homes, with continuing local general management, and with special facilities for common use by the occupants, including such items as common recreational building and areas, common open space, laundries, and the like. (Ord. 304 Art. 4(part), 1990).

19.04.760 Nonconforming uses of building. “Nonconforming uses of building” means use of a building or of land that does not conform to regulations as to use for the district in which it is situated. (Ord. 304 Art. 4 (part), 1990).

19.04.770 Official zoning map. “Official zoning map” means the map or maps, which are a part of the zoning title, and delineate the boundaries of the zoning districts. (Ord. 304 Art. 4(part), 1990).


19.04.800 Parking lot. “Parking lot” means an off-street ground level area, usually surfaced and

19.04.810 Parking space. “Parking space” means an area nine feet six inches by eighteen feet, or greater which is sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile. Required off-street parking shall be provided in a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 4(part), 1990).

19.04.820 Permitted use. “Permitted use” means any use allowed in a zoning district and subject to the restrictions applicable to that zoning district. (Ord. Art. 4(part), 1990).


19.04.840 Principal use. “Principal use” means the primary or predominant use of any lot. (Ord. 304 Art. 4(part), 1990).

19.04.850 Professional office. “Professional office” means any building or part thereof used by one or more persons engaged in the practice of law, medicine, accounting, architecture, engineering or other occupation customarily considered as a profession. (Ord. 304 Art. 4(part), 1990).


19.04.870 Public hearing. “Public hearing” means a meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate. (Ord. 304 Art. 4(part), 1990).

19.04.880 Public utility. “Public utility” means any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under public regulations, to the public: electricity, gas, heat, power, steam, telephone, telegraph or water. (Ord. 304 Art. 4(part), 1990).

19.04.890 Quasi-institutional homes. “Quasi-institutional homes” means a profit or nonprofit boarding home, rest home, or other home for the sheltered care of juvenile or adult persons, which in addition to providing food and shelter to four more persons unrelated to the proprietor also provides personal care or service beyond food, shelter, and laundry. (Ord. 304 Art. 4(part), 1990).

19.04.900 Recreational vehicle. “Recreational vehicle” means a vehicular type portable structure without permanent foundation, which can be towed, hauled, or driven and primarily designated as temporary living accommodations for recreation, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes. (Ord. 304 Art. 4(part), 1990).

19.04.910 Recreational vehicle park. “Recreational vehicle park” means a lot which is operated on a fee or other basis as a place for the parking of occupied recreational vehicles. (Ord. 304 Art. 4(part), 1990).

19.04.920 Restaurant. “Restaurant” means a public eating establishment at which the primary function is the preparation and serving of food. (Ord. 304 Art. 4(part), 1990).

19.04.930 Restaurant, drive-in. “Drive-in restaurant” means an eating establishment, where for compensation, food is prepared and dispensed, having only incidental consumption within the principal building on the premises. (Ord. 304 Art. 4(part), 1990).


19.04.960 School. “School” means any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge. (Ord. 304 Art. 4(part), 1990).

19.04.970 Service station. “Service station” means an establishment consisting of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced; such service shall not include tire recapping, body repairs or major overhaul. (Ord. 304 Art. 4(part), 1990).

19.04.980 Setback. “Setback” means the distance between the lot line and building line. (Ord. 304 Art. 4(part), 1990).

19.04.990 Sign. “Sign” means any surface, fabric, device, or display which bears lettered, pictorial, or sculptured matter, including forms shaped to resemble any human, animal, or product, designed to convey information visually and which is exposed to public view. For purposes of this title, the term “sign” shall include all structural members. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered to a single sign. (Ord. 304 Art. 4(part.), 1990).


19.04.1010 Sign, billboard. “Billboard sign” means a sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. (Ord. 304 Art. 4(part), 1990).

19.04.1020 Sign, bulletin board. “Bulletin board sign” means a sign which identifies an institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages. (Ord. 304 Art. 4(part), 1990).

19.04.1030 Sign, electric awning. “Electric awning sign” means a fireproof space frame structure with translucent flexible reinforced vinyl covering designed in awning form, but whose principal purpose and use is signage. Such signs are internally illuminated by fluorescent or other light sources in fixtures approved under national and local electrical codes. (Ord. 304 Art. 4(part), 1990).

19.04.1040 Sign face. “Sign face” means that area of a sign which:

1. In the case of freestanding, projecting, and marquee signs consists of the entire surface area of the sign on which copy could be placed. The supporting structure or bracing of a sign shall not be counted as a part of sign face area unless such structure or bracing is made a part of the sign’s message. Where a sign has two display faces back to back, the area of only one face shall be considered the sign face area. Where a sign has more than one display face, all areas which can be viewed simultaneously shall be considered the sign face area.

2. In the case of a sign (other than freestanding, projecting, or marquee) whose message is fabricated together with the background which borders or frames the message, sign face area shall be the total area of the entire background.

3. In the case of a sign (other than freestanding, projecting, or marquee) whose message is applied to a background which provides no border or frame, sign face area shall be the area of the smallest rectangle which can encompass all words, letters, figures, emblems, and other elements of the sign message. (Ord. 304 Art. 4(part), 1990).

19.04.1050 Sign, freestanding. “Freestanding sign” means a self-supporting sign resting on or supported by means of poles, standards, or any other type of base on the ground. (Ord. 304 Art. 4(part), 1990).

19.04.1060 Sign, illuminated. “Illuminated sign” means a sign lighted by or exposed to artificial
lighting either by lights on or in the sign (directly illuminated) or directed towards the sign (indirectly illuminated). (Ord. 304 Art. 4(part), 1990).

19.04.1070 Sign, marquee. “Marquee sign” means any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building’s wall and generally designed and constructed to provide protection against the weather. (Ord. 304 Art. 4(part), 1990).

19.04.1080 Sign, nonconforming. “Nonconforming sign” means any sign which does not conform to the regulations or this title. (Ord. 304 Art. 4(part), 1990).

19.04.1090 Sign, portable. “Portable sign” means a sign that is designed to be transported, attached temporarily or permanently to a building, structure, sign or the ground. (Ord. 304 Art. 4(part), 1990).

19.04.1100 Sign, projecting. “Projecting sign” means a sign that is wholly or partly dependent upon a building for support and which projects more than twelve inches from such building. (Ord. 304 Art. 4(part), 1990).

19.04.1110 Sign, roof. “Roof sign” means a sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eaves line of a building with a gambrel, gable, or hip roof or the deck line of a building with a mansard roof. (Ord. 304 Art. 4(part), 1990).

19.04.1120 Sign, temporary. “Temporary sign” means a sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time. (Ord. 304 Art. 4(part), 1990).

19.04.1130 Sign, wall. “Wall sign” means a sign fastened to or painted on a wall of a building or structure such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve inches from such building or structure. (Ord. 304 Art. 4(part), 1990).

19.04.1140 Specified anatomical areas. “Specified anatomical areas” means:

1. Less than completely and opaquely covered:
   A. Human genitals, pubic region,
   B. Buttocks,
   C. Female breast below a point immediately above the top of the areola;


19.04.1150 Specified sexual activities. “Specified sexual activities” means:

A. Human genitals in a state of sexual stimulation or arousal;
B. Acts of human masturbation, sexual intercourse or sodomy;
C. Fondling of human genitals, pubic region, buttocks or female breast. (Ord. 304 Art. 4(part), 1990).

19.04.1160 Story. “Story” means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and the ceiling next above it. (Ord. 304 Art. 4 (part), 1990).

19.04.1170 Story, half. “Half story” means a space under a sloping roof which as the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than sixty percent of the floor area is or may be finished off for use. (Ord. 304 Art. 4(part), 1990).
19.04.1180 Street. “Street” means any thoroughfare or public space which has been dedicated to, and accepted by, the public for public use and includes all the right-of-way side lines. (Ord. 304 Art. 4(part), 1990).

19.04.1190 Street, arterial. “Arterial street” means a street which provides for through traffic movement between and around areas and across the city with direct access to abutting property; subject to necessary control of entrance, exits and curb uses. (Ord. 304 Art. 4(part), 1990).

19.04.1200 Street, collector. “Collector street” means a street which provides for traffic movement between arterial and local streets, with direct access to abutting property. (Ord. 304 Art. 4(part), 1990).

19.04.1210 Street, line. “Line street” means a dividing line, such as the right-of-way line, between a lot, tract or parcel of land and contiguous street. (Ord. 304 Art. 4(part), 1990).

19.04.1220 Street, local. “Local street” means a street which provides direct access to abutting land and for local traffic movement, whether in business, industrial or residential areas. (Ord. 304 Art. 4(part), 1990).


19.04.1240 Structure. “Structure” means anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, and arbors or breezeways, but excepting utility poles, fences, retaining walls, and ornamental light fixtures. (Ord. 304 Art. 4(part), 1990).

19.04.1250 Structural alterations. “Structural alterations” means any change in the supporting members of building, such as bearing walls or partitions, columns, beams or girder, or any complete rebuilding of the roof or exterior walls. (Ord. 304 Art. 4(part), 1990).

19.04.1260 Subdivision. “Subdivision” means the process (and the result) of dividing a parcel of raw land into smaller buildable sites, blocks, streets, open space, and public areas, and the designation of the location of utilities and other improvements. The term “subdivision” includes resubdivision and the term “resubdivision” as used herein, shall include any further subdivision of a lot or parcel of land previously subdivided, for sale, use, or other purposes, which varies from the latest, approved subdivision of the same. (Ord. 304 Art. 4(part), 1990).

19.04.1270 Substantial improvement. “Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

(1) Before the improvement or repair is started;

(2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

(1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. (Ord. 304 Art. 4(part), 1990).

19.04.1230 Supplemental parental care. “Supplemental parental care” means the care, supervision, education, or guidance of a child or children, unaccompanied by the child’s parent, guardian, or custodian, which is, or is anticipated to be ongoing for periods of four or more hour’s per day for three
or more days per week. (Ord. 304 Art. 4 (part), 1990).


19.04.1300 Telecommunications dish. “Telecommunications dish” means a large dish antenna such as is used for receiving television signals. (Ord. 304 Art. 4(part), 1990).

19.04.1310 Temporary use. “Temporary use” means a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period. (Ord. 304 Art. 4(part), 1990).

19.04.1320 Tract. “Tract” means a plot or parcel of land, other than a lot in a subdivision which is recorded in the office of the register of deeds of Pierce County. (Ord. 304 Art. 4 (part), 1990).

19.04.1330 Use. “Use” means the purpose for which land or a building or structure thereon is designed, arranged, intended, or maintained or for which it is or may be used or occupied. (Ord. 304 Art. 4(part), 1990).

19.04.1340 Variance. “Variance” means the relaxation of the terms of the zoning regulations in relation to height, area, size and open spaces of specific lots where specific physical conditions, unique to the site, would create an unreasonable hardship in the development of the site for permitted uses. (Ord. 304 Art. 4(part), 1990).

19.04.1350 Yard. “Yard” means an open space on the same lot with a building, unoccupied and obstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used. (Ord. 304 Art. 4(part), 1990).

19.04.1360 Yard, front. “Front yard” means a yard extending across the front of a lot between the side lot lines and extending from the front lot line to the front of the main building or any projections thereof. The front yard shall be on the side of the lot which has been established as frontage by the house numbering system. (Ord. 304 Art. 4(part), 1990).

19.04.1370 Yard, rear. “Rear yard” means a yard extending across the rear of the lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building including any projections. On interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards. (Ord. 304 Art. 4(part), 1990).

19.04.1380 Yard, side. “Side yard” means a yard extending from the front yard to the rear and being the space between the side lot line and the side of the main building including any projections. (Ord. 304 Art. 4(part), 1990).

Chapter 19.06

DISTRICTS AND BOUNDARIES

Sections:

19.06.010 District classifications.
19.06.020 Official zoning map.
19.06.030 Replacement of official zoning map.
19.06.040 Annexation rule.
19.06.050 Resolution of boundary conflicts.
19.06.060 Applicability of district regulations.

19.06.010 District classifications. In order to effectively carry out the provisions of these regulations, the land within the corporate limits and the land within one-half mile of the corporate limits of the city to the extent permitted by Section 40-47-01.1 shall be divided into the following zoning districts:

A agricultural district
R-I single-family district
R-2 two-family and multi-family district
R-3 mobile home park district
R-4 mobile home district
C-I central business district
C-2 general commercial district
1-1 light industrial district
1-2 heavy industrial district
1-3 industrial park district. (Ord. 304 Art. 5 §1, 1990).

19.06.020 Official zoning map.

(a) The city and adjoining unincorporated territory is divided into zones at districts, as shown on the official zoning map, which together with all explanatory matter thereon is adopted by reference and declared to be a part of this title.

(b) The official zoning map shall be identified by the signature of the mayor, attested by the city auditor, and bearing the seal of the city under the following words: “This is to certify that this is the Official Zoning Map referred to in Article 5 of Ordinance Number 304 of the City of Rugby, North Dakota,” together with the date of the adoption of the ordinance codified in this title.

(c) If in accordance with the provisions of this title and Chapter 40-47, North Dakota Century Code, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly by the building official after the amendment has been approved by the city council with an entry on the official zoning map as follows: “On (date), by official action of the City Council the following change (changes) were made in the official zoning map: (brief description of nature of change),” which entry shall be signed by the Mayor and attested by the city auditor. No amendment to this title, which involves matter portrayed on the official zoning map, shall become effective until after such change and entry has been made on said map.

(d) No changes of any nature shall be made in the official zoning map, or matter shown thereon, except in conformity with the procedures set forth in this title. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this title and punishable as provided under Chapter 19.44.

(e) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the city auditor shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the city. (Ord. 304 Art. 5 §2, 1990).

19.06.030 Replacement of official zoning map. In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the city council may by resolution adopt a new official zoning map which shall supersede the
prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city auditor, and bearing the seal of the city under the following words:

“This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance Number 304 of the City of Rugby, North Dakota.” Unless the prior Official Zoning Map has been lost, or totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment. (Ord. 304 Art. 5 §3, 1990).

19.06.040 Annexation rule. All territory which may hereafter be annexed to the city shall be annexed as the R-1 single family district until or unless otherwise changed by ordinance. (Ord. 304 Art. 5 §4, 1990).

19.06.050 Resolution of boundary conflicts. Where uncertainty exists with respect to the boundaries of the various districts as shown on the official zoning map accompanying and made a part of this title, the following rules apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as parallel to, or extensions of, features indicated in subsections A through D of this section shall be so construed;
6. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (5) of this section, the city council shall interpret the distance boundaries;
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of the ordinance codified in this title, the city council may permit, as a special exception, the extension of the regulations for either portion of the lot not exceed fifty feet beyond the district line into the remaining portion of the lot;
8. Distances not specifically indicated on the official zoning map shall be determined by the use of the scale or dimensions appearing on the map. (Ord. 304 Art. 5 §5, 1990).

19.06.060 Applicability of district regulations. The regulations set by this title within each district shall apply uniformly to each class or kind of structure or land, and particularly, except as herein provided:

1. No land shall be used for any use other than those specified as a permitted use or a conditional use for which a conditional use permit has been obtained for the district in which it is located.
2. No structure shall hereafter be erected, reconstructed, structurally altered, enlarged, added to, or moved so as to cause a use other than those uses permitted in the district in which such structure is located.
3. No structure shall hereafter be erected, reconstructed, structurally altered, enlarged, or moved so as to exceed the building height limit established for the district in which such structure is located, except as other-wise provided.
4. No lot shall be so reduced or diminished nor shall any structure be so enlarged or moved as to reduce or diminish the yards, lot area, or open space required in the district where located. Yards or lots created after the effective date of the ordinance codified in this title shall meet at least the minimum requirements established by this title.
5. Every building hereafter erected shall be located on a lot, as defined herein, and in no case shall there be more than one main building on one lot except as may be otherwise provided.
(6) No part of a yard, other open space, off-street parking or loading space required about or in connection with any building for the purpose of complying with this title shall be included as part of a yard, open space, off-street parking or loading space similarly required for any other building.

(7) Any uses which are not listed in a district as either a permitted use or a conditional use shall be considered a prohibited use and not allowed in that zoning district. (Ord. 304 Art. 5 §6, 1990).
Chapter 19.08

NONCONFORMITIES

Sections:

19.08.010   Purpose. Within the districts established by this title or amendments thereto, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before the ordinance codified in this title was passed or amended but which would be prohibited, regulated, or restricted under the terms of this title or future amendment. It is the intent of this title to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this title that nonconformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same district. (Ord. 304 Art. 6(part), 1990).

19.08.020   Incompatibility. Nonconforming uses are declared by this title to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage the ordinance codified in this title by attachment on a building or premises of additional signs intended to be seen off the premises, or by addition of other uses, of a nature which would be prohibited generally in the district involved. (Ord. 304 Art. 6(part), 1990).

19.08.030   Changes prior to ordinance adoption. To avoid undue hardship, nothing in this title shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption of amendment of the ordinance codified in this title and upon which actual building construction has been carried on diligently. (Ord. 304 Art. 6(part), 1990).

19.08.040   Nonconforming lots of record.

(a) In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the ordinance codified in this title notwithstanding limitations imposed by other provisions of this title. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements, for area or width or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the city council.

(b) If two or more lots or combination of lots and portion of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this title, and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of the parcel shall be used in a manner which diminishes compliance with lot width and area requirements established by this title, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this title. (Ord. 304 Art. 6 §1, 1990).
19.08.050 Nonconforming uses of land. Where at the time of passage of this title lawful use of land exists which would not be permitted by the regulations imposed by this title and where such use involves no individual structure with a replacement cost exceeding one thousand dollars, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance codified in this title.

2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that area occupied by such use at the effective date of adoption or amendment of the ordinance codified in this title.

3. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this title for the district in which such land is located.

4. No additional structure not conforming to the requirements of this title shall be erected in connection with such nonconforming use of land. (Ord. 304 Art. 6 §2, 1990).

19.08.060 Nonconforming structures. Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this title that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this title.

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved. (Ord. 304 Art. 6 §3, 1990).

19.08.070 Nonconforming uses of structures and premises in combination. If a lawful use involving individual structures with a replacement cost of one thousand dollars or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this title, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this title in the district in which it is located shall be enlarged, extended, constructed, reconstructed moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this title, but no such use shall be extended to occupy any land outside such buildings.

3. If not structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the city council, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the city council may require appropriate conditions and safeguards in accord with the provisions of this title.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

5. when a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for one year (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

6. where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty percent of the replacement cost at time of destruction. (Ord. 304 Art. 6 §4, 1990).

19.08.080   Repairs and maintenance.
   (a) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing wall, fixtures, wiring or plumbing, to an extent not exceeding ten percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.
   (b) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.
   (c) Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. (Ord. 304 Art. 6 §5, 1990).

19.08.090   Conforming uses are conditional uses. Any use which is permitted as a conditional use in a district under the terms of this title (other than a change through city council action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use. (Ord. 304 Art. 6 §6, 1990).
Chapter 19.10

A AGRICULTURAL DISTRICT

Sections:

19.10.010  Intent. This district is intended to protect and preserve lands which are presently agricultural in nature and use by restricting and regulating density, land coverage, and land use. (Ord. 304 Art. 7 §1, 1990).

19.10.020  Permitted uses. The following uses shall be permitted in this district:

(1) General agricultural or farm operations, including the sale of products or commodities raised on the premises. This shall not include or permit:
   (A) The spreading, accumulation, feeding or use of garbage in any form on the surface of the land,
   (B) Any activity within three hundred feet of a dwelling district which is noxious or offensive by reason of dust, odor or noise;
(2) Single-family dwellings;
(3) Churches and similar places of worship, parish houses, schools, community centers, public parks and playgrounds and other recreational facilities;
(4) Greenhouses, nurseries, garden centers and the growing and preservation of trees;
(5) Fish hatcheries, beekeeping, fur farms, and animal kennels;
(6) Cemeteries;
(7) Animal hospital or veterinary clinics;
(8) Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed;
(9) The renting of not to exceed two sleeping rooms with a total occupancy not to exceed three persons for whom board may be furnished but with the prohibition of separate food preparation areas for such tenants;
(10) Home occupations provided all requirements in chapter 19.04 are met;
(11) Roadside stands for operation during six months of the year for the sale of products produced on the farm;
(12) Family child care homes;
(13) Customary accessory uses and structures located on the same tract as the principal use. (Ord. 304 Art. 7 §2, 1990).

19.10.030  Conditional uses. The following uses shall be conditionally permitted in this district:

(1) Any public building erected or land used by a department of the city, county, state or federal government which is not listed in Section 19.10.020;
(2) Airport or heliport;
(3) Crematory;
(4) Telephone exchanges, electric and gas substations and regulator stations;
(5) Golf courses;
(6) Group day care facilities and child care centers. (Ord. 304 Art. 7 §3, 1990).
19.10.040 Minimum lot requirements.
   (a) Minimum lot area, five acres.
   (b) Minimum lot width, one hundred twenty-five feet. (Ord. 304 Art. 7 §4, 1990)

19.10.050 Minimum yard requirements.
   (a) Front yard, forty feet.
   (b) Side yard, fifteen feet.
   (c) Rear yard, forty feet. (Ord. 304 Art. 7 §5, 1990).


19.10.070 Minimum floor area. The minimum floor area of any dwelling excluding attached garage, shall be eight hundred square feet. (Ord. 304 Art. 7 §7, 1990).

19.10.080 Maximum height of buildings. Except as otherwise provided in the additional height, area, and use regulations of this title, no building or structure shall exceed the following height restrictions:
   (1) When a building or structure is within one hundred fifty feet of a residential district, the building or structure shall not exceed thirty-five feet in height.
   (2) When a building or structure is more than one hundred fifty feet from a residential district, the building or structure shall not exceed sixty feet in height. (Ord. 304 Art. 7 §8, 1990).

19.10.090 Sign limitations.
   (a) See Chapter 19.30 for general sign regulations. One identification sign shall be permitted per residential use, provided such sign does not exceed two square feet in area; the sign may be wall, freestanding or projecting type, but not projecting over public property.
   (b) Roadside market signs advertising produce grown and sold on the premises on which they are located shall be permitted providing such signs shall not exceed twenty-four square feet in area or be displayed for a period exceeding six months of any calendar year. (Ord. 304 Art. 7 §9, 1990).

19.10.100 Off-street parking regulations. See Chapter 19.32 for off-street parking requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 7 §10, 1990).
Chapter 19.12

R-I SINGLE-FAMILY RESIDENTIAL DISTRICT

Sections:

19.12.010 Intent. This district is intended for the purpose of allowing low density residential land uses with the co-mingling of compatible single-family dwellings, certain public facilities, and home occupations, yet retaining the basic residential qualities. (Ord. 304 Art. S §1, 1990).

19.12.020 Permitted uses. The following uses shall be permitted in this district:

(1) Single-family dwellings;
(2) Home occupations provided all requirement in Chapter 19.04 are met;
(3) Churches and similar places of worship and parish houses;
(4) Golf courses, except miniature golf courses and driving Lees operated for commercial purposes;
(5) Public parks, playgrounds and recreation areas;
(6) Schools;
(7) Licensed group homes serving six or fewer developmentally disabled persons;
(8) Family child care homes;
(9) Customary accessory uses and structures located on the same tract as the principal use;
(10) Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed. (Ord. 304 Art. 8 §2, 1990).

19.12.030 Conditional uses. The following uses shall be conditionally permitted in this district:

(1) Two-family dwellings;
(2) Hospitals and nursing homes;
(3) Group day care facilities and child care centers;
(4) Nonprofit institutions of an educational, philanthropic, or eleemosynary nature;
(5) Quasi-institutional homes. (Ord. 304 Art. 8 §3, 1990)

19.12.040 Minimum lot requirements.

<table>
<thead>
<tr>
<th></th>
<th>Minimum</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>Lot Width</td>
<td></td>
</tr>
<tr>
<td>Single-family dwellings</td>
<td>7,000 sq. ft.</td>
<td>50 feet</td>
</tr>
<tr>
<td>Two-family dwellings</td>
<td>10,000 sq. ft.</td>
<td>75 feet</td>
</tr>
<tr>
<td>Hospitals and nursing homes</td>
<td>3 acres</td>
<td>100 feet</td>
</tr>
</tbody>
</table>

(Ord. 304 Art. 8 §4, 1990).

19.12.050 Minimum yard requirements.

(a) Front Yard. Measured from the front property line there shall be a front yard of not less than twenty-five feet. Double frontage lots shall have the required front yard on both streets.
(b) Side Yard. A minimum of five feet. The required side yard on the street side of a corner
lot shall be one-half the required front yard on such street for the principal building and all accessory buildings, provided that no adjacent dwellings front on the same street, in which case the entire front yard must be provided. When a garage is entered from an alley or street at right angles, it shall not be closer than twenty feet from side lot line.

(c) Rear yard, twenty-five feet. Accessory buildings may be built in a required rear yard but such accessory buildings shall not be nearer than three feet to any side or rear lot line, except when a garage is entered from an alley at right angles, it shall not be closer than twenty feet from the rear lot line. An attached garage is considered a part of the principal building for the purpose of determining setbacks. (Ord. 304 Art. 8 §5, 1990).

19.12.060 Maximum lot coverage by buildings. Not more than thirty percent of the lot shall be covered by the principal building and all accessory buildings. (Ord. 304 Art. 8 §6, 1990).

19.12.070 Minimum floor area. The minimum floor area of any dwelling excluding attached garage, shall be eight hundred square feet on the main floor. (Ord. 304 Art. 8 §7, 1990).

19.12.080 Maximum height of buildings. Except as otherwise provided in the additional height, area, and use regulations of this title, no building shall exceed thirty-five feet in height. (Ord. 304 Art. 8 §8, 1990).

19.12.090 Sign limitations.
   (a) See Chapter 19.30 for general sign regulations. One identification sign shall be permitted per residential use, provided such sign does not exceed two square feet in area; said sign may be wall, freestanding or projecting type, but not projecting over public property.
   (b) In connection with residential subdivisions, no sign intended to be read from any public way adjoining the district shall be permitted except:
       (1) No more than one identification sign, not exceeding twelve square feet in area, for each principal entrance;
       (2) In the case of a new subdivision, one sign, not exceeding eighteen square feet in area, may be erected for a period of not more than two years at each principal entrance to advertise the sale of lots or dwellings.
       (c) No more than one sign, not exceeding six square feet in area, advertising property for sale or rent. (Ord. 304 Art. 8 §9, 1990).

19.12.100 Off-street parking regulations. See Chapter 19.32 for off-street parking requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 8 §10, 1990).
Chapter 19.14

R-2 MULTIPLE-FAMILY DWELLING DISTRICT

Sections:

19.14.010  Intent and purpose.  The R-2 multiple family dwelling district is intended for the purpose of allowing medium density residential land uses with the co-mingling of compatible single-family and two-family dwellings, home occupations, certain community facilities, yet retaining the basic residential qualities. (Ord. 304 Art. 9 §1, 1990).

19.14.020  Permitted uses.  The following uses shall be permitted in this district:

(1)  Single-family dwellings;
(2)  Two-family dwellings;
(3)  Home occupations provided all requirements in Chapter 19.04 are met;
(4)  Churches and similar places of worship and parish houses;
(5)  Golf courses, except miniature golf courses and driving tees operated for commercial purposes;
(6)  Public parks, playgrounds and recreation areas;
(7)  Schools;
(8)  Licensed group homes serving eight or fewer developmentally disabled persons;
(9)  Family child care homes;
(10) Customary accessory uses and structures located on the same tract as the principal use;
(11) Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed. (Ord. 304 Art. 9 §2, 1990).

19.14.030  Conditional uses.  The following uses shall be conditionally permitted in this district:

(1)  Multiple family dwellings;
(2)  Boarding, rooming and lodging houses;
(3)  Community recreation buildings owned and operated by a public agency;
(4)  Hospitals and nursing homes;
(5)  Group day care facilities and child care centers;
(6)  Institutions of higher learning, including dormitory facilities;
(7)  Public buildings;
(8)  Nonprofit institutions of an educational, philanthropic or eleemosynary nature.  (Ord. 304 Art. 9 §3, 1990).

19.14.040  Minimum lot requirements.

<table>
<thead>
<tr>
<th></th>
<th>Minimum Lot Area</th>
<th>Minimum Lot Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family dwellings</td>
<td>6,000 sq. ft.</td>
<td>50 feet</td>
</tr>
<tr>
<td>Two-family dwelling</td>
<td>10,000 sq. ft.</td>
<td>75 feet</td>
</tr>
<tr>
<td>Multiple family dwellings</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Per structure 9,000 sq. ft. 60 feet
Per dwelling unit 2,000 sq. ft. N/A
Boarding, rooming and lodging houses 7,200 sq. ft. 70 feet
Hospitals and nursing homes 2 acres 90 feet

(Ord. 304 Art. 9 §4, 1990).

(a) Front yard, measured from the front property line there shall be a front yard of not less than twenty-five feet. Double frontage lots shall have the required front yard on both streets.
(b) Side yard, a minimum of five feet. The required side yard on the street side of a corner lot shall be one-half the required front yard on such street for the principal building and all accessory buildings, provided that no adjacent dwellings front on the same street, in which case the entire front yard must be provided. When a garage is entered from an alley or street at right angles, it shall not be closer than twenty feet from the side lot line.
(c) Rear yard, twenty-five feet. Accessory buildings may be built in a required rear yard but such accessory buildings shall not be nearer than three feet to any side or rear lot line, except when a garage is entered from an alley at right angles, it shall not be closer than twenty feet from the rear lot line. An attached garage is considered a part of the principal building for the purpose of determining setbacks. (Ord. 304 Art. 9 §5, 1990).

19.14.060 Minimum lot coverage by buildings. Not more than forty percent of the lot shall be covered by the principal building and all accessory buildings. (Ord. 304 Art. 9 §6, 1990).

19.14.070 Minimum floor area. (a) The minimum floor area of any dwelling excluding attached garage, shall be eight hundred square feet.
(b) Multiple family dwellings and boarding, rooming and lodging houses, the minimum floor area shall be four hundred fifty square feet per dwelling unit. (Ord. 304 Art. 9 §7, 1990).

19.14.080 Maximum height of buildings. Except as otherwise provided in the additional height, area, and use regulations of this title, no building shall exceed forty-five feet in height. (Ord. 304 Art. 9 §8, 1990).

(a) See chapter 19.30, for general sign regulations. One identification sign shall be permitted per residential use, provided such sign does not exceed two square feet in area; said sign may be wall, freestanding or projecting type, but not projecting over public property.
(b) In connection with residential subdivisions, apartment complexes and condominiums, no sign intended to be read from any public way adjoining the district shall be permitted except:
   (1) No more than one identification sign, not.. exceeding twelve square feet in area, for each principal entrance;
   (2) In the case of new subdivisions, one sign, not exceeding eighteen square feet in area, may be erected for a period of not more than two years at each principal entrance to advertise the sale of lots or dwellings.
(c) No more than one sign, not exceeding six square feet in area, advertising property for sale, lease, or rent, or indicating vacancy or no vacancy may be erected on any lot. (Ord. 304 Art. 9 §9, 1990).

19.14.100 Off-street parking regulations. See Chapter 19.32 for off-street parking requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 9 §10, 1990).
Chapter 19.16

R-3 MOBILE HOME PARK DISTRICT

Sections:

19.16.010 Intent. This district is intended for the purpose of allowing low density mobile home uses in a park like atmosphere. The mobile home park district is intended for those areas where the owner intends to develop and rent or lease individual sites. (Ord. 304 Art. 10 §1, 1990).

19.16.020 Permitted uses. The following uses shall be permitted in this district:

1. Single-family mobile homes on a well drained concrete slab;
2. Parks and playgrounds;
3. Mobile home service buildings such as coin-operated washers and dryers for the exclusive use of the residents of the mobile home park;
4. Office for manager of mobile park;
5. Home occupations provided all requirements in Chapter 19.04 are met;
6. Family child care homes;
7. Customary accessory uses and structures for exclusive use of mobile home park residents;
8. Temporary structures incidental to construction work, but only for the period of such work. (Ord. 304 Art. 10 §2, 1990).

19.16.030 Conditional uses. The following uses shall be conditionally permitted in mobile home park district: outdoor storage areas for exclusive use of mobile home park residents. (Ord. 304 Art. 10 §3, 1990).

19.16.040 Minimum lot requirements. Minimum Lot Area Minimum Lot Width

<table>
<thead>
<tr>
<th>Use</th>
<th>Minimum Lot Area</th>
<th>Minimum Lot Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family mobile homes</td>
<td>5,000 sq. ft.</td>
<td>50 feet</td>
</tr>
<tr>
<td>Service buildings</td>
<td>6,000 sq. ft.</td>
<td>60 feet</td>
</tr>
</tbody>
</table>

(Ord. 304 Art. 10 §4, 1990).

19.16.050 Minimum yard requirements.

(a) Front yard, measured from the front property line there shall be a front yard of not less than twenty feet. Double frontage lots shall have the required front yard on both streets.
(b) Side and rear yard, a minimum of fifteen feet separation between adjacent mobile homes and any attachments shall be required. Accessory buildings may not be built within the required separation distance. The required side yard on the street side of a corner lot shall be one-half the required front yard on such street for the principal building and all accessory buildings, provided that no adjacent dwellings front on the same street, in which case the entire front yard must be provided. (Ord. 304 Art. 10 §5, 1990).

19.16.060 Maximum lot coverage by buildings. Not more than forty percent of the lot shall be
covered by the principal building and all accessory buildings. (Ord. 304 Art. 10 §6, 1990).

19.16.070 Minimum floor area. The minimum floor area for residences, excluding attached garage, shall be one hundred fifty square feet. (Ord. 304 Art. 10 §7, 1990).


19.16.090 Sign limitations. See Chapter 19.30 for general sign regulations. One identification sign shall be permitted per residential use, provided such sign does not exceed two square feet in area; the sign may be wall, free standing or projecting type, but not projecting over public property. In connection with the mobile home court no sign intended to be read from any public way adjoining the district shall be permitted, except:

(1) No more than one identification sign, not exceeding twelve square feet in area, for each principal entrance;

(2) In the case of new mobile home courts, one sign, not exceeding eighteen square feet in area, may be erected for a period of not more than two years at each principal entrance to advertise the sale of dwellings, or lots for rent;

(3) No more than one sign, not exceeding six square feet in area, to advertise the sale of dwellings, or lots for rent. (Ord. 304 Art. 10 §9, 1990).

19.16.100 Off-street parking regulations. See Chapter 19.32 for off-street parking requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 10 §10, 1990).

19.16.110 Other requirements. (a) Tract Size. The tract to be used for a mobile home park shall not be less than five acres.

(b) Site Plan Approval Required. Before building permits may be issued for construction of mobile home courts, in addition to other required permits, reports, and reviews, the site plan must be approved by the planning commission and city council. The site plan shall show topography and size and location of the mobile home sites, service buildings, off-street parking areas, electrical outlets, sewer outlets, water outlets, water lines, sewer lines, recreational areas, landscaped areas, walls or fences, roadways and walkways.

(c) Development Plan Required. Prior to site plan approval, the applicant must submit a development plan to the planning commission. The development plan shall include a schedule of construction and evidence of financial ability to complete the development.

(d) Mobile Home Court Without Water Supply System or Waste Water Treatment Plant. In any mobile home court not served by a water supply system and waste water treatment plant the minimum lot size shall be one-half acre per dwelling unit, excluding streets and alleys.

(e) Street Widths. All mobile home spaces shall front on a private roadway. Private streets shall have a required paving width of twelve feet for moving lanes and parallel parking lanes of eight feet where on-street parking is to be permitted. Any streets which are to be dedicated to the city must meet the general requirements for street widths. Roadways shall be hard surfaced and adequately lighted at night.

(f) Walkways. Walkways of not less than three feet shall be provided from the mobile homes to any service buildings and to the exterior of the court connecting to neighboring land uses. Walkways shall be hard surfaced and adequately lighted at night.

(g) Recreational Areas. A recreational area of not less than two hundred square feet per each mobile home space shall be located in a central area. A plot plan indicating the type and placement of any playground equipment shall be submitted to the building official and planning commission. The recreational area shall be fully developed within one year after the first occupancy.

(h) Screening. Along the edges of mobile home courts, walls or vegetative screening shall be provided where needed to protect residents from undesirable views, lighting, noise or other off-site influences, or to protect occupants of adjoining residential districts from potentially adverse influences.
within the mobile home court. (Ord. 304 Art. 10 §11, 1990)
Chapter 19.18

R-4 MOBILE HOME DISTRICT

Sections:

19.18.010  Intent. This district is intended to permit mobile homes on permanent foundations where a lot or group of lots is owned by the mobile home owner. (Ord. 304 Art. 11 §1, 1990).

19.18.020  Permitted uses. The following uses shall be permitted in this district:

1. Single-family mobile homes on a permanent foundation;
2. Community recreation areas and buildings, parks and playgrounds;
3. Home occupations provided all requirements in Chapter 19.04 are met;
4. Schools;
5. Family child care homes;
6. Customary accessory uses and structures located on the same tract as the principal use;
7. Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed. (Ord. 304 Art. 11 §2, 1990).

19.18.030  Conditional uses. The following uses shall be conditionally permitted in this district:

1. Public buildings;
2. Hospitals and nursing homes;
3. Nonprofit institutions of an educational, philanthropic, or eleemosynary nature. (Ord. 304 Art. 11 §3, 1990).

19.18.040  Minimum lot requirements.

<table>
<thead>
<tr>
<th>Use</th>
<th>Minimum Lot Area</th>
<th>Minimum Lot Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family mobile homes</td>
<td>6,000 sq. ft.</td>
<td>50 feet.</td>
</tr>
<tr>
<td>Hospitals and nursing home</td>
<td>2 acres</td>
<td>90 feet.</td>
</tr>
</tbody>
</table>

(Ord. 304 Art. 11 §4, 1990).

19.18.050  Minimum yard requirements.

(a) Front Yard. Measured from the front property line there shall be a front yard of not less than twenty-five feet. Double frontage lots shall have the required front yard on both streets.

(b) Side Yard. A minimum of five feet. The required side yard on the street side of a corner lot shall be one-half the required front yard on such street for the principal building and all accessory buildings, provided that no adjacent dwellings front on the same street, in which case the entire front yard must be provided. When a garage is entered from an alley or street at right angles, it shall not be closer than twenty feet from the side lot line.

(c) Rear yard, twenty-five feet. Accessory buildings may be built in a required rear yard but such accessory buildings shall not be nearer than three feet to any side or rear lot line, except
when a garage is entered from an alley at right angles, it shall not be closer than twenty feet from the rear lot line. An attached garage is considered a part of the principal building for the purpose of determining setbacks. (Ord. 304 Art. 11 §5 1990).

19.18.060 Maximum lot coverage by buildings. Not more than thirty-five percent of the lot shall be covered by the principal building and all accessory buildings. (Ord. 304 Art. 11 §6, 1990).

19.18.070 Minimum floor area. The minimum floor area for residences, excluding attached garage, shall be eight hundred square feet. (Ord. 304 Art. 11 §7, 1990).

19.18.080 Maximum height of buildings. Except as otherwise provided in the additional height, area, and use regulations of this title, no building shall exceed thirty-five feet in height. (Ord. 304 Art. 11 §8, 1990).

19.18.090 Sign limitations. (a) See Chapter 19.30, for general sign regulations. One identification sign shall be permitted per residential use, provided such sign does not exceed two square feet in area; said sign may be wall, freestanding or projecting type, but not projecting over public property.

(b) In connection with residential subdivisions, no sign intended to be read from any public way adjoining the district shall be permitted, except:

(1) No more than one identification sign, not exceeding twelve square feet in area, for each principal entrance;

(2) In the case of a new subdivision, one sign, not exceeding eighteen square feet in area, may be erected for a period of not more than two years at each principal entrance to advertise the sale of lots or dwellings.

(c) No more than one sign, not exceeding six square feet in area, advertising property for sale, lease, or rent may be erected on any lot. (Ord. 304 Art. 11 §9, 1990).

19.18.100 Off-street parking regulations. See Chapter 19.32 for off-street parking requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 11 §10, 1990).

19.18.110 Other requirements. Tract size. The tract to be used for a mobile home district shall not be less than three acres. In determining the tract size, an adjacent and contiguous mobile home park or mobile home district may be included as up to two acres of the required minimum tract size. (Ord. 304 Art. 11 §11, 1990).
Chapter 19.20

C-1 CENTRAL BUSINESS DISTRICT

Sections:

19.20.010 Intent. This district is intended to protect and encourage the development of a community core area that functions as a center of community business activity. (Ord. 304 Art. 12 §1, 1990)

19.20.020 Permitted uses. The following uses shall be permitted in this district:

19.20.020(1) Multifamily dwellings provided the ground floor is used as retail space;
(2) Small business machine sales, repair and service shops, auto accessory and supply stores, bicycle shops, household appliance sales, repair and service shops;
(3) Amusement places, taverns, package liquor stores, bowling alleys and commercial recreation uses;
(4) Antique shops and stores, providing all merchandise is displayed and sold inside a building, art and art supply stores, artist studios;
(5) Apparel and accessory stores, clothing and costume rental shops, clothing stores, custom dressmaking, millinery tailoring and similar trades, furrier shops, department stores, jewelry, metal and hand craft stores and shops, specialty shops, watch and watch repair shops, leather goods and luggage stores, shoe and shoe repair stores, sporting and athletic goods stores, toy stores, variety stores, thrift shops, mail order catalog stores and pawn shops;
(6) Government buildings and services, auditoriums and similar places of public assembly, libraries, museums and theaters;
(7) Financial institutions, offices and office buildings, office supply and office equipment sales and service stores, newspaper offices, news stands, printing shops and printing supply stores, printing and publishing houses;
(8) Barber and beauty shops, chiropody, massage or similar personal services, laundries and dry cleaning establishments, books and stationery stores, cigar and tobacco co stores, drug stores and prescription shops, retail florist and garden shops, gift shops and pet shops;
(9) Business and technical schools, schools for photography, music and dance, photographic equipment sales and supply stores, photographic studios, picture framing shops, music instrument sales and repair shops, and music stores and studios;
(10) Churches;
(11) Delicatessen and catering establishments, retail bakery and pastry shops, grocery stores and restaurants;
(12) Hotels and motels, private clubs, fraternities, sororities, and lodges;
(13) Medical, dental and health clinics, medical and orthopedic appliance stores, optician and optometrist shops, funeral homes and mortuaries;
(14) Railroad and railroad right-of-ways, railway, taxi and bus passenger stations, travel bureaus, messenger and telegraph service stations;
(15) Hardware stores, wallpaper, paint, and glass stores, lock and key shops, interior decorator shops, furniture and home furnishing stores;
(16) Radio and television studios, and utility company offices;
(17) New and used automobile sales;
(18) Other retail uses similar in nature to those enumerated;
(19) Public and private child care facilities;
(20) Customary accessory uses and structures located on the same tract as the principal use. (Ord. 304 Art. 12 §2, 1990).

19.20.030 Conditional uses. The following uses shall be conditionally permitted:
A. Parking lots, ramps and garages;
B. Gasoline and service stations;


19.20.070 Minimum floor area. The minimum floor area for a dwelling unit, excluding attached garage, shall be four hundred fifty square feet. (Ord. 304 Art. 12 §7, 1990).

19.20.080 Maximum height of buildings. Except as otherwise provided in the additional height, area, and use regulations of this title, no building shall exceed sixty feet in height. (Ord. 304 Art. 12 §3, 1990).

   (1) One wall, marquee, awning, or electric awning sign may be erected per street side for each ground floor commercial establishment not exceeding three square feet for each foot of building frontage. The total sign face shall not exceed four hundred square feet. No illumination for any sign or premises shall be directly visible in any portion of a residential district after ten p.m.
   (2) Flashing signs shall be allowed only upon approval of the building official, providing it is first determined that the sign will in no way create a traffic hazard or confusion with traffic lights or with lights on emergency vehicles.
   (3) One nonilluminated ground sign, for identification of commercial users only, may be erected provided:
      (A) All buildings are set back a minimum of fifty feet from the public right-of-way;
      (B) No portion of the sign located in or overhanging any required yard area or right-of-way;
      (C) The sign face does not exceed twelve square feet;
      (D) The sign does not exceed six feet in height. (Ord. 304 Art. 12 §9, 1990).

19.20.100 Off-street parking regulations. See Chapter 19.30 for off-street parking requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 12 §10, 1990).
Chapter 19.22

C-2 GENERAL COMMERCIAL DISTRICT

Sections:

19.22.010  Intent.  This district is intended to encourage those types of developments requiring large quantities of retail space which is not available in the central business district; provide easily accessible services to travelers; and provide an aesthetically pleasing environment which would have few, if any, adverse effects on the adjoining property. (Ord. 304 Art. 13 §1, 1990).

19.22.020  Permitted uses. The following uses shall be permitted in this district:

1. Multifamily dwellings provided the ground floor is used as retail;
2. Small business machine sales, repair, and service shops, auto accessory and supply stores, bicycle shops, household appliance sales, repair and service shops;
3. Amusement places, taverns, package liquor stores, bowling alleys and commercial recreation uses;
4. Antique shops and stores, providing all merchandise is displayed and sold inside a building, art and art supply stores, artist studios;
5. Apparel and accessory stores, clothing and costume rental shops, clothing stores, custom dressmaking, millinery tailoring and similar trades, furrier shops, department stores, jewelry, metal and hand craft stores and shops, specialty shops, watch and watch repair shops, leather goods and luggage stores, shoe and shoe repair stores, sporting and athletic goods stores, toy stores, variety stores, thrift shops, mail order catalog stores, and pawn shops;
6. Government buildings and services, auditoriums and similar places of public assembly, libraries, museums, theaters and tourist attractions;
7. Financial institutions, offices and office buildings, office supply and office equipment sales and service stores, newspaper offices, news stands, printing shops and printing supply stores, printing and publishing houses;
8. Barber and beauty shops, chiropody, massage or similar personal services, laundries and dry cleaning establishments, books and stationery stores, cigar and tobacco stores, drug stores and prescription shops, retail florist and garden shops, gift shops, and pet shops;
9. Business and technical schools, schools for photography, music and dance, photographic equipment sales and supply stores, photographic studios, picture framing shops, music instrument sales and repair shops, and music stores and studios;
10. Churches;
11. Delicatessen and catering establishments, retail bakery and pastry shops, grocery stores, and restaurants;
12. Hotels and motels, private clubs, fraternities, sororities and lodges;
13. Medical, dental and health clinics, medical and orthopedic appliance stores, optician and optometrist shops, funeral homes and mortuaries;
14. Railroads and railroad right-of-ways, railway, taxi and bus passenger stations, travel bureaus, messenger and telegraph service stations;
15. Hardware stores, wallpaper, paint and glass stores, lock and key shops, interior
decorator shops, furniture and home furnishing stores, and lumber yards;
(16) Radio and television studios, and utility company offices;
(17) New and used automobile sales, auto repair and service shops, mobile home sales, gasoline and service stations, car washes, and tire repair stores;
(18) Other retail uses similar in nature to those enumerated;
(19) Public and private child care facilities;
(20) wholesale establishments;
(21) Plumbing and sheet metal shops;
(22) Electric substations, telephone exchanges, and utility regulator stations;
(23) Animal hospitals or veterinary clinics, provided they are in a completely enclosed building;
(24) Mini-storage buildings;

19.22.030 Conditional uses. The following uses shall be conditionally permitted:
(1) Parking lots, ramps and garages;


19.22.070 Minimum floor area. The minimum float area for a dwelling unit, excluding attached garage, shall be four hundred fifty square feet. (Ord. 304 Art. 13 §7, 1990).

19.22.080 Maximum height of buildings. Except as otherwise provided in the additional height, area, and use regulations of this title, no building shall exceed forty-five feet in height. (Ord. 304 Art. 13 §3, 1990).

19.22.090 Sign limitations. See Chapter 19.30 for general sign regulations.
(1) One freestanding sign may be erected per premises, not to exceed forty-five feet in height as a permitted use and one hundred feet in height as a conditional use. The sign face shall not exceed one square foot per one foot of street frontage where the sign is to be placed, up to a maximum of two hundred square feet. The maximum total area of all sign faces shall be three square feet per one foot of street frontage.
(2) Wall signs may be erected with a sign face not exceeding the larger of twenty percent of the facade to which it is attached or sixty square feet to a maximum of two hundred square feet. The sign shall not extend above the top of the wall or facade to which it is attached.
(3) Projecting signs may be erected in place of free standing signs and with a sign face of not more than fifty square feet. The maximum total area of all the sign face; shall be one hundred square feet. The sign shall not extend above the top of the wall or facade to which it is attached.
(4) Roof signs may be erected in place of freestanding signs and not exceeding the district height regulations or twenty feet above the top of the roof whichever is less. The sign faces shall not exceed one square foot per one foot of street frontage up to a maximum of fifty square feet; but in any event thirty-two square feet is permitted. The maximum total area of all sign faces shall be two times the maximum permitted size per sign face.
(5) Marquee signs may be erected with sign faces up to an additional one hundred percent in area beyond that. permitted for freestanding signs, provided the sign faces of other signs which may be permitted are reduced. The increase in area permitted the marquee sign shall be equal to the reduction in area of other permitted signs.
(6) Flashing signs are not permitted within five hundred feet of a residential district. Illuminated, non-flashing signs shall be permitted provided sign is illuminated only during business hours or until eleven p.m. whichever is later, whenever the sign is located adjacent to a residential
district. No illumination from the sign shall beam directly upon a residential building. (Ord. 304 Art. 13 §9, 1990).

19.22.100 Off-street parking requirements. See Chapter 19.30 for off-street parking requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 13 §10, 1990).
Chapter 19.24

I-1 LIGHT INDUSTRIAL DISTRICT

Sections:

19.24.010 Intent. This district is intended to include area suited for light industrial uses including, but not limited to, light manufacturing, processing, storage, wholesale and distribution operations, and other processes and operations which do not require large numbers of workers; do not generate heavy truck traffic; do not emit significant amounts of noise, smoke, dust, or glare; and do not require intensive land coverage. Limited commercial uses are allowed in this district to serve the uses for which the district is primarily intended. (Ord. 304 Art. 14 §1, 1990).

19.24.020 Permitted uses. The following uses shall be permitted in this district:

(1) Small business machine sales, repair and service shops, auto supply stores, carpenter and cabinet shops, and household appliance repair shops;
(2) Plumbing and sheet metal shops, roofing shops, mini-storage buildings, lumber yards, building material yards, contractor yards, and heating and air conditioning shops;
(3) Airports, railroads, essential public utilities, and public services installations;
(4) Grain and feed mills, grain elevators;
(5) Animal hospitals or veterinary clinics, kennels;
(6) Radio or television transmitting stations, vocational or technical schools, electric substations, telephone exchanges, and utility regulator stations;
(7) Auto sales and repair, farm implement sales and services, car wash establishments, auto body work and auto painting and mobile home sales and storage;
(8) Dry cleaning and/or laundry plants;
(9) Light manufacturing industries consisting of the processing and treatment of goods and foodstuffs, except alcohol or alcoholic beverages, fish, meat products, vinegar and yeast;
(10) Other wholesale, light manufacturing, construction or service uses which are similar in character to those enumerated above; and will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare; and will not impair the use, enjoyment, or value of any property;

19.24.030 Conditional uses. The following uses shall be conditionally permitted in this district:

(1) The temporary storage of hazardous materials, subject to the Uniform Fire Code;
(2) Storage of flammable liquids above grade, and wholesale, subject to Uniform Fire Code regulations;


19.24.050 Minimum yard requirements.
(a) Front Yard. None, except along arterial streets there shall be a front yard of not less than fifteen feet.

(b) Side Yard. None, except where the district abuts a residential district there shall be a side yard not less than fifteen feet.

(c) Rear Yard. None, except where the district abuts a residential district there shall be a rear yard of not less than fifteen feet. (Ord. 304 Art. 14 §5, 1990).


(a) When a building or structure is within one hundred fifty feet of a residential district, the building or structure shall not exceed forty-five feet in height.

(b) When a building or structure is more than one hundred fifty feet from a residential district, the building or structure shall not exceed seventy-five feet in height. (Ord. 304 Art. 14 §8, 1990).


(1) One freestanding sign may be erected per premises, not to exceed forty-five feet in height as a permitted use and one hundred feet in height as a conditional use. The sign face shall not exceed one square foot per one foot of street frontage where the sign is to be placed, up to a maximum of two hundred square feet. The maximum total area of all sign faces shall be three square feet per one foot of street frontage.

(2) Wall signs may be erected with a sign face not exceeding the larger of twenty percent of the facade to which it is attached or sixty square feet to a maximum of two hundred square feet. The sign shall not extend above the top of the wall or facade to which it is attached.

(3) Projecting signs may be erected in place of freestanding signs and with a sign face of not more than fifty square feet. The maximum total area of all the sign faces shall be one hundred square feet. The sign shall not extend above the top of the wall or facade to which it is attached.

(4) Roof signs may be erected in place of freestanding signs and not exceeding the district height regulations or twenty feet above the top of the roof, whichever is less. The sign faces shall not exceed one square foot per one foot of street frontage up to a maximum of fifty square feet; but in any event thirty-two square feet is permitted. The maximum total area of all sign faces shall be two times the maximum permitted size per sign face.

(5) Marquee signs may be erected with sign faces up to an additional one hundred percent in area beyond that permitted for freestanding signs, provided the sign faces of other signs which may be permitted are reduced. The increase in area permitted the marquee sign shall be equal to the reduction in area of other permitted signs.

(6) Flashing signs are not permitted within five hundred feet of a residential district. Illuminated, non-flashing signs shall be permitted provided sign is illuminated only during business hours or until eleven p.m. which ever is later, whenever the sign is located adjacent to a residential district. No illumination from the sign shall beam directly upon a residential building. (Ord. 304 Art. 14 §9, 1990).

19.24.100 Off-street parking regulations. See Chapter 19.32 for off-street parking requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 14 §10, 1990).
Chapter 19.26

1-2 HEAVY INDUSTRIAL DISTRICT

Sections:

19.26.010 Intent. This district is intended for the purpose of allowing basic or primary industries which are generally not compatible with residential and/or commercial activities. Certain extremely obnoxious or hazardous uses will require special permission to locate in this district. Commercial and retail uses are generally not allowed in this district. (Ord. 304 Art. 15 §1, 1990).

19.26.020 Permitted uses. The following uses shall be permitted in this district:

(1) Uses permitted in I-1 light industrial districts provided no dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on the premises, including families of such employees when living with them.

(2) Any other use, not otherwise prohibited by law; provided, however, that none of the following uses shall be established or reconstructed, structurally altered, enlarged, or moved unless the planning commission approves of the issuance of a permit therefore under the same procedure as set forth in Chapter 19.38:

(A) Pipe yards;
(B) Acid manufacturers;
(C) Cement, lime, gypsum or plaster of paris manufacture,
(D) Distillation of bones, coal, tar, petroleum, refuse, grain or wood;
(E) Clay manufacture;
(F) Dump;
(G) Fat rendering and fertilization manufacture;
(H) Gas manufacture;
(I) Smelting of tin, copper, zinc, or iron ores;
(J) Temporary storage of hazardous materials as regulated by federal and state laws;
(K) Bulk storage of flammable liquids of one thousand gallons or more above grade, and wholesale, provided all applicable safety regulations are complied with;
(L) Tannery;
(N) Junk yard, auto wrecking yard or salvage yard subject to the following conditions:

(i) Located on a tract of land at least three hundred feet from a residential district zone.
(ii) The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a solid fence or wall at least six feet high. The fence or wall shall be of uniform height, uniform texture and color, and shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence or wall shall be installed in such a manner as to retain all scrap, junk, or other material within the yard.

(iii) No junk shall be loaded, unloaded, or otherwise place either temporarily or permanently outside the enclosed building, fence or wall, or within the public right-of-way.
(N) Adult entertainment;
(0) Any other use which is objectionable by reason of emission of odor, dust, smoke, gas, vibration, or noise, or which may impose a hazard to health or property;
(3) Customary accessory uses and structures located on the same tract as the principal use. (Ord. 304 Art. 15 §2, 1990).


   (a) Front Yard. None, except along arterial streets there shall be a front yard of not less than fifteen feet.
   (b) Side Yard. None, except where the district abuts a residential district there shall be a side yard of not less than fifteen feet.
   (c) Rear Yard. None, except where the district abuts a residential district there shall be a rear yard of not less than fifteen feet. (Ord. 304 Art. 15 §5, 1993).


19.26.080 Maximum height of buildings. (a) When a building or structure is within one hundred fifty feet of a residential district, the building or structure shall not exceed forty-five feet in height.
   (b) When a building or structure is more than one hundred fifty feet from a residential district, the building or structure shall not exceed seventy-five feet in height. (Ord. 304 Art. 15 §8, 1990).

   (1) One freestanding sign may be erected per premises, not to exceed forty-five in height as a permitted use and one hundred feet in height as a conditional use. The sign face shall not exceed one square foot per one foot of street frontage where the sign is to be placed, up to a maximum of two hundred square feet. The maximum total area of all sign faces shall be three square feet per one foot of street frontage.
   (2) Wall signs may be erected with a sign face not exceeding the larger of twenty percent of the facade to which it is attached or sixty square feet to a maximum of two hundred square feet. The sign shall not extend above the top of the wall or facade to which it is attached.
   (3) Projecting signs may be erected in place of freestanding signs and with a sign face of not more than fifty square feet. The maximum total area of all the sign face shall be one hundred square feet. The sign shall not extend above the top of the wall or facade to which it is attached.
   (4) Roof signs may be erected in place of freestanding signs and not exceeding the district height regulations or twenty feet above the top of the roof whichever is less. The sign faces shall not exceed one square foot per one. foot of street frontage up to a maximum of fifty square feet; but in any event thirty-two square feet is permitted. The maximum total area of all sign faces shall be two times the maximum permitted size per sign face.
   (5) Marquee signs may be erected with sign faces up to an additional one hundred percent in area beyond that permitted for freestanding signs, provided the sign faces of other signs which may be permitted are reduced. The increase in area permitted the marquee sign shall be equal to the reduction in area of other permitted signs.
   (6) Flashing signs are not permitted within five hundred feet of a residential district. Illuminated, non-flashing signs shall be permitted provided the sign is illuminated only during business hours or until eleven p.m., whichever is later, whenever the sign is located adjacent to a residential district. No illumination from the sign shall beam directly upon a residential building. (Ord. 304 Art. 15 §9, 1990).

Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 15 §10, 1990).
Chapter 19.28

I-3 INDUSTRIAL PARK DISTRICT

Sections:

19.28.010  Intent.  This district is intended to allow certain industrial land uses in a park like atmosphere and to control the type of use, setback, parking, loading and unloading. It is also intended that this district is compatible with the adjoining dwelling and commercial land uses. (Ord. 304 Art. 16 §1, 1990).

19.28.020  Permitted uses.  The following uses are permitted in this district:

(1) Wholesale, distributive businesses, and related storage yards;
(2) Warehouses, supply and storage areas, including refrigerated storage facilities;
(3) Contractor or commercial service businesses, offices and associated storage yard, provided the storage yard is completely enclosed with a six-foot fence or wall;
(4) Trucking, moving and storage, and freight terminals;
(5) Manufacturing or assembly plants;
(6) Carpenter, cabinet, plumbing, machine, sheet metal, welding, and blacksmith shops;
(7) Lumberyards and enclosed building material storage areas;
(8) Commercial garages, tire sales and service stations;
(9) Bottling plants and dairy processing plants;
(10) Offices;
(11) Parking lots;
(12) Other wholesale, manufacturing, construction or service uses which are similar in character to those enumerated above and which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor, or smoke, and no portion of the property shall be used for the manufacture, storage, distribution or sale of materials or products which might depreciate the value of any adjoining property;
(13) Customary accessory uses and structures located on the same tract as the principal use. (Ord. 304 Art. 16 §2, 1990).

19.28.030  Conditional uses.  The following uses shall be conditionally permitted in this district:

(1) Automobile, trailer, equipment, or machinery dealerships with storage and display areas;
(2) Automobile or scrap metal salvage yards;
(3) Truck stop service stations;
(4) Storage of flammable liquids above grade, and wholesale subject to Uniform Fire Code regulations;
(5) Storage of liquefied gases, subject to Uniform Fire Code regulations;
(6) Cement or asphalt mixing plants;

19.28.040  Minimum lot requirements.

(a) Minimum lot area, ten thousand square feet.
(b) Minimum lot width, one hundred feet. (Ord. 304 Art. 16 §4, 1990).

19.28.050 Minimum yard requirements. (a) Front yard, measured from the front property line there shall be a front yard of not less than thirty feet.
   (b) Side yard, none, except on corner lots the minimum setback shall be fifteen feet.
   (c) Rear yard, none, except on double frontage lots the minimum setback shall fifteen feet. (Ord. 304 Art. 16 §5, 1990).

19.28.060 Maximum lot coverage by buildings. Not more than sixty percent of the lot shall be covered by the principal building and all accessory buildings. (Ord. 304 Art. 16 §6, 1990).


19.28.080 Maximum height of buildings. (a) When a building or structure is within one hundred fifty feet from a residential district, the building or structure shall not exceed forty-five feet in height.
   (b) When a building or structure is more than one hundred fifty feet from a residential district, the building or structure shall not exceed seventy-five feet in height. (Ord. 304 Art. 16 §8, 1990).

19.28.090 Sign limitations. See Chapter 19.30, general sign regulations:
   (1) One freestanding sign may be erected per premises, not to exceed forty-five feet in height as a permitted use and one hundred feet in height as a conditional use. The sign face shall not exceed one square foot per one foot of street frontage where the sign is to be placed, up to a maximum of two hundred square feet. The maximum total area of all sign faces shall be three square feet per one foot of street frontage.
   (2) Wall signs may be erected with a sign face not exceeding the larger of twenty percent of the facade to which it is attached or sixty square feet to a maximum of two hundred square feet. The sign shall not extend above the top of the wall or facade to which it is attached.
   (3) Projecting signs may be erected in place of freestanding signs and with a sign face of not more than twenty percent square feet. The maximum total area of all the sign faces shall be one hundred square feet. The sign shall not extend above the top of the wall or facade to which it is attached.
   (4) Roof signs may be erected in place of freestanding signs and not exceeding the district height regulation or twenty feet above the top of the roof whichever is less. The sign faces shall not exceed one square foot per one foot of street frontage up to a maximum of fifty square feet; but in any event thirty-two square feet is permitted. The maximum total area of all sign faces shall be two times the maximum permitted size per sign face.
   (5) Marquee signs may be erected with sign faces up to an additional one hundred percent in area beyond that permitted for freestanding signs, provided the sign faces of other signs which may be permitted are reduced. The increase in area permitted the marquee sign shall be equal to the reduction in area of other permitted signs.
   (6) Flashing signs are not permitted within five hundred feet of a residential district. Illuminated, non-flashing signs shall be permitted provided sign is illuminated only during business hours or until 11 p.m., whichever is later, whenever the sign is located adjacent to a residential district. No illumination from the sign shall beam directly upon a residential building. (Ord. 304 Art. 16 §9, 1990).

19.23.100 Off-street parking regulations. See Chapter 19.32 for off-street parking requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. (Ord. 304 Art. 16 §10, 1990).
Chapter 19.30

SIGNS

Sections:

19.30.010 Purpose--Intent.
19.30.020 Excluded signs.
19.30.030 Defined--Exclusions.
19.30.040 Permit--Required.
19.30.050 Permitted signs.
19.30.060 Unlawful signs.
19.30.070 Temporary signs.
19.30.080 Permitted signs--All zones.
19.30.090 Billboards.
19.30.100 Incidental signs and bulletin boards.
19.30.110 Signs and city planning area--Permit required.
19.30.120 Nonconforming existing signs.
19.30.130 Portable signs.

19.30.010 Purpose--Intent.

(a) The purpose of the general sign regulations shall be to coordinate the type, placement and physical dimensions of signs within the different land use zones; to recognize the commercial communication requirements of all sectors of the business community; and to encourage the innovative use of design. These shall be accomplished by regulation of the display, erection, and use of signs. The use of signs is regulated according to zone. The placement and physical dimensions of signs are regulated primarily by type and length of street frontage. No sign shall be permitted as a main or accessory use except in accordance with the provisions in this title.

(b) Thus, the primary intent of these regulations shall be to regulate signs of a commercial nature intended to be viewed from any vehicular public right-of-way. (Ord. 304 Art. 17 §1 (part), 1990).

19.30.020 Excluded signs. These regulations shall not relate to building design. Nor shall the regulations regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government, or noncommercial organization; gravestones; barber poles; religious symbols; commemorative plaques; the display of street numbers; or any display or construction not defined herein as a sign (Ord. 304 Art. 17 §1 (part), 1990).

19.30.030 Defined--Exclusions. A “sign” means any surface, fabric, device, or display which bears lettered, pictorial, or sculptured matter, including forms shaped to resemble any human, animal, or product, designed to convey information visually and which is exposed to public view. For purposes of this title, the term “sign” shall include all structural members. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered to be a single sign. The types of signs included in the definition of a sign are described in Chapter 19.04. The following shall not be included in the application of the regulations herein:

(1) Signs not exceeding two square feet in area and bearing only property numbers, post box numbers, or names of occupants of premises;
(2) Flags and insignia of any government, nation or noncommercial organization, except when displayed in connection with commercial promotion;
(3) Legal notices, identification, or directional signs erected by governmental bodies;
(4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
(5) Signs directing and guiding traffic, and parking; on private property, but bearing no advertising matter;
(6) window displays, product dispensers and point of purchase displays, or scoreboards on athletic fields;
(7) Property addresses stamped or painted on curbing directly in front of the building.

19.30.040 Permit--Required. Unless specified herein no person shall erect, alter, reconstruct or relocate any sign without first obtaining a sign permit for such work from the building inspector. No permit shall be issued until the building inspector determines that such work is in accordance with the requirements contained in this title. When a sign permit has been issued by the building inspector, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without prior approval from the building inspector. A written record of approval shall be entered upon the original permit application and maintained in the files of the building inspector. (Ord. 304 Art. 17 §1(2), 1990).

19.30.050 Permitted signs. Except as otherwise provided, signs permitted shall be as enumerated in the district regulations, chapters 19.10 through 19.23. (Ord. 304 Art. 17 §1(3), 1990).

19.30.060 Unlawful signs. It is unlawful to erect, or maintain:
(1) Any sign which is not included under the types of signs permitted in district regulations or in this subsection;
(2) Any sign, outdoor commercial advertising or lighting device such as a beacon light, constituting a nuisance because of lighting glare, focus, animation, or flashing;
(3) Any sign which conflicts in any manner with the clear and obvious appearance of public signs and devices controlling traffic;
(4) Any sign projecting more than ten feet over a street, alley, or other public space, or closer than two feet to the curbline of any public street or alley, or less than ten feet above any street, alley, or public space;
(5) Any notice, political poster, handbill, advertisement or any other sign upon any power or telephone pole, bridge, fire hydrant, official public sign, or in any portion of a public right-of-way;
(6) Any sign on public property except by approval of the city council;
(7) Any sign within three feet of a driveway or parking area or within fifty feet of an intersection of two or more streets which has its lowest elevation less than ten feet above curb level.

19.30.070 Temporary signs. The following temporary signs are allowed without a permit:
(1) Signs advertising the sale, lease, or rental of the premises upon which the sign is located, such sign shall not exceed six square feet in area in residential districts and ten square feet in area in other district;
(2) Signs denoting the architect, engineer, or contractor placed on premises where construction, repair, or renovation is in progress, such signs shall not exceed sixteen square feet in area in residential districts and thirty-two square feet in area in other districts. (Ord. 304 Art. 17 §1(5), 1990).

19.30.080 Permitted signs--All zones. The following signs are permitted in all zones:
(1) All signs not requiring a permit (Sections 19.30.020 and 19.30.070);
(2) Signs denoting the architect, engineer, or contractor placed on premises where construction, repair, or renovation is in progress;
(3) Temporary special event signs and decorations per premises as allowed by the building official for special events, grand openings, or holidays. (Ord. 304 Art. 17 §1(6), 1990).

19.30.090 Billboards. Billboards shall be allowed only in I-1 light industrial and I-2 heavy industrial districts as permitted uses and in the C-2 general commercial district as conditional uses and only if they conform to the following provisions:
(1) The owner shall agree, at the time of issuance of the permit, to place and maintain on
such billboard the name of the person owning, in charge of, or in control of, the billboard.

(2) No billboard shall be erected, altered, constructed, reconstructed, or moved until an application and plans shall have been filed with and approved by the building official as to size, location, and construction.

(3) Billboards shall not exceed twenty feet in height above ground.

(4) The owner, lessee or manager of such billboard, and the owner of the sign shall maintain and keep the ground area around the sign free and clean of weeds and debris.

(5) No billboard shall exceed five hundred square feet (on a single face)

(6) Plans for billboards in the fire limits shall be referred to the fire department for review and recommendation.

(7) No billboard shall project beyond the front, side or rear building line established for the district as set forth in this title.

(8) It is unlawful to construct or maintain, or cause to be constructed or maintained, any billboard in such manner as to:
   (A) Obstruct the view of street or railroad crossings;
   (B) Be unable to stand a pressure of at least forty pounds per square foot of advertising surface;
   (C) Be dangerous to the public by falling or blowing down;
   (D) Increase the danger of loss by fire or to increase fire insurance rates;
   (E) Approach nearer than five feet from any building, unless attached to the building.

(9) Billboards hereafter erected, constructed, reconstructed, altered or moved in the city and the planning area shall be constructed in such a manner and of such materials that they shall be safe and substantial.

(10) Billboards supported by the ground shall have all posts set in concrete. (Ord. 304 Art. 17 §1(7), 1990).

19.30.100 Incidental signs and bulletin boards. (a) Signs or bulletin boards customarily incidental to places of worship, libraries, museums, social clubs, or societies may be erected not exceeding ten feet in height. The sign face shall not exceed twenty-four square feet and the maximum total area of all sign faces shall be two times the maximum permitted size per sign face. The signs or bulletin boards shall be located on the premises of the institution. One sign or bulletin board shall be permitted on each street side. If sign or bulletin board is illuminated, the lights shall be directed away from adjoining residential uses. Buildings constructed on the property line shall be allowed one flat wall sign permanently attached to the building.

(b) No sign shall be located closer than eight feet from any side or rear property line or one-half the distance of the required front yard if located in the front yard. On corner lots, no sign shall be constructed or located that will obstruct the view of traffic approaching the street intersection. Ground signs shall be permanent by anchored and not exceed a height of six feet above normal grade. (Ord. 304 Art. 17 §1(8), 1990).

19.30.110 Signs and city planning area--Permit required. A permit shall be required for the erection, construction or alteration of any sign in the city planning area. Application for permits by other than the property owner shall be accompanied by either a letter authorizing the placement of the sign on the land or building, signed by the owner or his duly authorized agent, or a lease showing the right of the applicant. Such application shall conform to the regulations herein provided and no such sign shall be erected or painted on any area until the application is acted upon and granted. If a sign for which a permit is granted is not erected within sixty days from the date of the permit, the permit shall, unless renewed, become void. Permits are issued for the life of the sign so long as it is kept in good condition, and changing conditions do not make it a hazard or undesirable to adjoining property owners. In such cases the city may direct its removal or repair. (Ord. 304 Art. 17 §1(9), 1990).

19.30.120 Nonconforming existing signs. Existing signs which do not conform to the specific provisions of this title may be eligible for the designation “legal non-conforming” provided that the building official determines such signs are properly maintained and do not in any way endanger the public and the sign was covered by a valid permit or complied with all applicable laws on the date of
adoption of this title. A legal nonconforming sign may lose this designation if the sign is relocated or replaced or the structure or size of the sign is altered in any way except towards compliance with this title. The legal non-conforming sign is subject to all requirements of these regulations regarding safety, maintenance, and repair. However, if the sign suffers more than fifty percent appraised damage or deterioration, it must be brought into conformance with these regulations or removed. (Ord. 304 Art. 17 §1(10), 1990).

19.30.130 Portable signs. No person shall place a portable sign on an establishment or allow upon their establishment a portable sign which does not meet the following provisions:

(1) Only one portable sign per business establishment is allowed and shall be placed on the premises of that establishment or on leased or rented space off the premises.

(2) The face of the portable signs shall not exceed thirty-two square feet.

(3) Signs shall not be placed on right-of-way, not shall they obstruct view at an intersection.

(4) Portable signs must be securely anchored but not permanently affixed to the ground. Once a portable sign is fastened to a building, elevated above ground level, placed on or affixed to poles, or placed on top of a building, it is considered a permanent sign and must meet all requirements for the type of sign, i.e. wall, freestanding, root etc., for the district in which it is placed.

(5) If signs are to be lighted, the electrical hookup shall be provided in such a manner as to not be a life or safety threat.

(6) Signs must be properly maintained as to be clean and in good working order and repair.

(7) Signs may be allowable in residential districts for a period not to exceed forty-eight hours, for special announcements or recognition purposes, and not for business; advertising. (Ord. 304 Art. 17 §1(11), 1990).
Chapter 19.32

OFF-STREET PARKING AND LOADING REQUIREMENTS

Sections:

19.32.010   Spaces required. Whenever a structure is erected, enlarged to the extent of increasing the floor area, or converted to a different use there shall be provided off-street parking space as specified below. (Ord. 304 Art. 17 §2 (part), 1990).

19.32.020   Design requirements. Parking areas shall be so designed that vehicles may enter, circulate, park and exit in a convenient and orderly fashion. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. The minimum size of each parking stall shall be nine feet six inches by eighteen and one-half feet exclusive of aisle width. For any parking area for six or more cars, a suitable means of turnaround must be provided at maximum design capacity so no vehicle shall back onto public streets or alleys. Minimal dimension requirements for the design of parking areas are shown in Table 19.32.020 and the accompanying figure.

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Diagram</th>
<th>Minimum Dimensions (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stall width, parallel to aisle</td>
<td>A</td>
<td>13.4, 11.0, 9.8, 9.5</td>
</tr>
<tr>
<td>Stall length of line</td>
<td>B</td>
<td>25.0, 22.0, 20.0, 18.5</td>
</tr>
<tr>
<td>Stall depth</td>
<td>C</td>
<td>17.5, 19.0, 19.5, 18.5</td>
</tr>
<tr>
<td>Aisle width between stalls</td>
<td>D</td>
<td>11.0, 15.0, 22.0, 25.0</td>
</tr>
<tr>
<td>Stall depth, interlock</td>
<td>E</td>
<td>15.3, 17.5, 13.3, 18.5</td>
</tr>
<tr>
<td>Module, edge of pavement to interlock</td>
<td>F</td>
<td>44.3, 51.5, 60.3, 62.0</td>
</tr>
<tr>
<td>Module, interlocking</td>
<td>G</td>
<td>42.0, 50.0, 60.0, 62.0</td>
</tr>
<tr>
<td>Module, interlock to curb face</td>
<td>H</td>
<td>42.8, 49.2, 57.8, 59.5</td>
</tr>
<tr>
<td>Bumper overhang (typical)</td>
<td>I</td>
<td>2.0, 2.3, 2.5, 2.5</td>
</tr>
<tr>
<td>Offset</td>
<td>J</td>
<td>6.3, 2.7, 0.5, 0.0</td>
</tr>
<tr>
<td>Side and rear yard setback</td>
<td>K</td>
<td>Residential districts: 5 feet Other districts: none</td>
</tr>
<tr>
<td>Description</td>
<td>Code</td>
<td>Residential Districts</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Cross aisle, one-way</td>
<td>L</td>
<td>14.0</td>
</tr>
<tr>
<td>Cross aisle, two-way</td>
<td>-</td>
<td>24.0</td>
</tr>
<tr>
<td>Front yard setback</td>
<td>M</td>
<td>As required for building in all districts except C-2. C-2 districts: none</td>
</tr>
<tr>
<td>Setback from principal building</td>
<td>N</td>
<td>Residential districts: 10 feet Other districts: 5 feet</td>
</tr>
<tr>
<td>Front lot line to drive (Landscape Area)</td>
<td>O</td>
<td>Residential districts: 10 foot Other districts: 5 foot</td>
</tr>
<tr>
<td>Side and rear lot line to drive</td>
<td>P</td>
<td>Residential districts: 5 feet Other districts: none</td>
</tr>
</tbody>
</table>

(Ord. 304 Art. 17 §2 (part), 1990)

**Figure 19.32.020**

Parking Layout Diagram

329
19.32.030 Definitions. (a) Reference herein to “employee(s) on the largest shift” means the maximum number of employees at the facility regardless of the time period during which this occurs and regardless of whether any such person is a full-time or part-time employee. The largest shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

(b) The term “capacity, as used herein, means the maximum number of persons which may be accommodated by the use as determined by its design or by fire code regulations, whichever is greater. (Ord. 304 Art. 17 §2 (part), 1990).

19.32.040 Number requirements. The number of off-street parking spaces which shall be required are as follows:

1. Residential Uses.
   - Single- and two-family dwellings and mobile homes, two spaces for each dwelling unit.
   - Multiple family dwelling units, two spaces per dwelling unit containing two bedrooms plus one-half additional space for each additional bedroom.
   - Home occupation, one space for each two hundred square feet of floor area used for a home occupation.

2. Institutional, Indoor, Recreation, and Special Residential.
   - Churches and other places of public assembly one space per four seats of maximum capacity.
   - Community and recreation center, one space per two hundred fifty square feet of gross floor space.
   - Group dwellings, fraternity or sorority, one space per bedroom or sleeping room.
   - Hospitals and nursing homes, one space per six patient beds, plus one space per doctor, plus one space per employee on the largest shift.
   - Schools.
     - Elementary and junior high, one space per teacher and staff member plus one space per room.
     - Senior high, one space per teacher and staff members plus one space per five non-bused students.

3. Commercial and Entertainment Uses. Except as specifically designated below, one space per two hundred fifty square feet of gross floor area.
   - Business and professional offices, one space per one hundred square feet of gross floor area;
   - Eating and drinking establishments, one space per three patron seats of maximum capacity;
   - Medical, dental, or health clinics, one space per fifty square feet of gross floor area;
   - Hotels or motels, one space for each living sleeping unit plus one space per employee on the largest shift;
   - Personal service establishments and retail stores, one space for each fifty square feet of gross floor area.

4. Industrial Uses. One space per one thousand square feet of gross floor area, plus one space per employee on the largest shift, plus one space per company vehicle regularly stored on premises.

5. Off-street parking lots for residential uses, home occupations, schools, churches and similar places of public assembly, hospitals, nursing homes, boarding, rooming and lodging houses, dormitories, fraternity or sorority houses shall be located in the side or rear yard. Off-street parking spaces for uses permitted in “general commercial” and “industrial districts” shall be located back of the required front yard line and shall be within three hundred feet of the building they serve.

6. Plans for off-street parking lots, other than for single and two-family dwellings, shall be prepared and submitted to the building official for review and approval prior to issuance of a building permit. Before approving any parking layout, the building official shall satisfy himself that the spaces provided are usable and meet standard design criteria. All required off-street parking spaces shall be clearly marked. Parking lots for other than single and two-family dwellings shall be surfaced with
asphalt, concrete or similar dust-free surface.

(7) In lieu of construction of the required parking lot, the governing body of the city may accept a corporate surety bond, cashier’s check, escrow account or other like security in an amount to be fixed by the governing body and conditioned upon the actual completion of such work or improvement, within a specified time, and the governing body may enforce such bond by all equitable means. (Ord. 304 Art. 17 §2(part), 1990).

19.32.050 Off-street loading requirements. No building or structure other than residences shall be erected, nor shall an existing building or structure be altered in any use district without prior provision for off-street loading space in conformance with the following minimum requirements:

(1) Required off-street loading space shall be provided in berths which conform to the following minimum specifications:

(A) Type A loading spaces shall be at least one hundred sixty feet long by ten feet wide by fourteen feet six inches high, inside dimensions.

(B) Type B loading spaces shall be at least thirty feet long by ten feet wide by fourteen feet six inches high, inside dimensions.

(C) Type C loading spaces shall be located in the rear of a lot and utilize part of any adjacent alley. The building setback shall be a minimum of five feet from the property line along the alley for the entire width of the lot.

The number of spaces shall be provided as follows:

<table>
<thead>
<tr>
<th>Number of Spaces</th>
<th>Cross Floor Area in Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3,000 to 20,000</td>
</tr>
<tr>
<td>2</td>
<td>20,000 to 40,000</td>
</tr>
<tr>
<td>3</td>
<td>40,000 to 60,000</td>
</tr>
<tr>
<td>4</td>
<td>60,000 to 80,000</td>
</tr>
<tr>
<td>5</td>
<td>80,000 to 100,000</td>
</tr>
<tr>
<td>6</td>
<td>100,000 to 150,000</td>
</tr>
</tbody>
</table>

One additional space shall be provided for each fifty thousand square feet above one hundred fifty thousand square feet.

(2) The following types of berths shall be provided for the specified uses; these uses shall include all structures designed, intended, or arranged for such use:

(A) Type A Loading Spaces. Manufacturing or wholesale establishments, warehouses, freight terminals, department stores, and food markets.

(B) Type B Loading Spaces. Auditoriums, assembly halls, schools, hospitals, nursing homes, office buildings, hotels, and motels.

(C) Type C Loading Spaces. Retail establishments, restaurants, funeral homes, and commercial establishments not otherwise specified.

(3) In the case if a use not specifically mentioned, the requirements for off-street loading facilities shall be the same as the above mentioned use which, in the opinion of the building official, is most similar.

(4) When any proposed structure will be used concurrently for different purposes, the larger berth size shall be required.

(5) The off-street loading facilities required for the uses mentioned in this section shall be on the same lot or parcel of land as the structure they are intended to serve. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements.

(6) No space for loading or unloading of vehicles shall be so located that a vehicle using such loading space projects into any public street, except in the case of type C berths. Loading space shall be provided with access to an alley, or if no alley adjoins the lot, with access to a street. Any
required front, side or rear yards may be used for loading unless otherwise prohibited by this title. Design and location of entrances and exits for required off-street loading areas shall be subject to the approval of the building official.

(7) Plans showing the layout and design of all required loading and unloading areas shall be submitted and approved by the building official prior to issuance of a building permit. Before approving the layout, the building official shall satisfy himself that all spaces provided are usable and meet standard design criteria and that the complete loading and unloading operation is performed off-street.

(8) In lieu of actual construction of the required off-street loading and unloading area, the governing body may accept a corporate surety bond, cashier’s check, escrow account or other like security in an amount fixed by the governing body and conditioned upon actual construction of such work or improvement, within a specified time, and the governing body may enforce such bond by all equitable means. (Ord. 304 Art. 17 §2(part), 1990).
Chapter 19.34

SUPPLEMENTARY DISTRICT REGULATIONS

Sections:

19.34.010   Fences, hedges and visibility at the intersection of streets
19.34.020   Accessory buildings.
19.34.030   Erection of more than one principal structure on a lot.
19.34.040   Exception of height regulations.
19.34.050   Access to structures.
19.34.060   Additional yard regulations.
19.34.070   Lots not served by a water supply system and a waste water treatment plant.
19.34.080   Adult entertainment center.

19.34.010   Fences, hedges and visibility at the intersection of streets.
   
   (a) In residential districts no fence shall be more than six feet in height in any rear or side yard or three feet in height in any front yard; provided further, that on a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet and ten feet above the center line grades of the intersecting streets with the triangle formed by the adjacent side lines of the two intersecting streets and the line joining points a distance of thirty feet on each side from their point of intersection (see Figure 19.34.010).
   
   (b) In commercial and industrial districts, no fence shall be more than nine feet in height in any yard. (Ord. 304 Art. 17 §4, 1990).
19.34.020 Accessory buildings. No accessory building shall be erected in any required front yard. Accessory buildings may be built in a required rear yard, but such accessory buildings shall not occupy more than thirty per-cent of a required rear yard and shall not be nearer than three feet to any side or rear lot line, except when a garage is entered from an alley at right angles, it shall not be nearer than twenty feet to the rear lot line. No accessory building, other than a residential garage with regard to the principal building, shall be erected closer than ten feet to any other building. A residential
garage located closer than ten feet to the principal building shall be regarded as a part of the principal building for the purpose of determining side and rear yards. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes other than by domestic servants employed entirely on the premises. (Ord. 304 Art. 17 §5, 1990).

19.34.030  Erection of more than one principal structure on a lot. In any district, more than one structure housing a permitted or permissible use may be erected on a single lot, provided that yard and other requirements of this title shall be met for each structure as though it were on an individual lot. (Ord. 304 Art. 17 §6, 1990).

19.34.040  Exception of height regulations. The height limitations contained in the schedule of district regulations do not apply to spires, grain elevators, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. These structures may be erected to a height not to exceed one hundred fifty feet, when not in conflict with airport approach zones. Not an exception to height regulations are dishes for receiving of telecommunications. When placed on buildings, telecommunication dishes shall be limited to the height restrictions as placed on buildings in the district (Ord. 304 Art. 17 §7, 1990).

19.34.050  Access to structures. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking. (Ord. 304 Art - 17 §8, 1990).

19.34.060  Additional yard regulations.  
(a) Every part of a required yard shall be open to the sky, unobstructed by any structure, except for the projection of sills, belt course, cornices and ornamental features which are not to exceed two feet.
(b) Planters not more than three feet in height may extend not more than three feet into any required yard.
(c) Open-lattice enclosed fire escapes, fireproof outside stairways, balconies opening upon fire towers and the ordinary projections of chimneys and flues into the rear yard may be permitted by the building official far a distance of not more than three and one-half feet and where the same are so spaced as not obstruct light and ventilation.
(d) Telecommunication dishes, when not placed on top of a building, shall be considered as an accessory building; and therefore, must meet setbacks required thereof. No telecommunications dish may be placed in a front or side yard.
(e) A covered or uncovered porch and steps which are place in front of the main entrance of the principal building and which are not more than four feet wider than the entrance, may project into a required front yard for a distance of not more than five feet.
(f) Where lots have double frontage, the required front yards shall be provided on both streets except in the I-B industrial park district where minimum rear yard setback for double frontage lots shall be fifteen feet, from the property line.
(g) In districts where public buildings, semi-public buildings, public service buildings, hospitals, institutional buildings, schools, and churches and similar places of worship are permitted, one foot of additional height will be permitted for each foot of additional building setback provided.
(h) For the purpose of the side yard regulations, a two-family or multiple family dwelling shall be considered as one building occupying one lot.
(i) No side yards are required where dwelling units are erected above commercial and industrial structures.
(j) Radio and television towers shall be permitted in any commercial or industrial district providing the height of the tower does not conflict with any approach or landing zone or with any other ordinance.
(k) The front yards heretofore established shall be adjusted in the following cases:
   (1) Where forty percent or more of the frontage on the same side of a street between two intersecting streets is developed with two or more buildings that have (with a variation of
five feet or less) a front yard greater in depth than herein required, new buildings shall not be erected
closer to the street than the front yard so established by the existing building nearest the street line.

(2) Where forty percent or more of the frontage on one side of a street between
two intersecting streets is developed with two or more buildings that have a front yard of less depth
than herein required then: Where a building is to be erected on a parcel of land that is within one
hundred feet of existing buildings on both sides, the minimum front yard shall be a line drawn between
the two closest front corners of the adjacent buildings on each side: or where a building is to be
erected on a parcel of land that is within one hundred feet of an existing building on one side only,
such building may be erected as close to the street as the existing adjacent building.

(1) Front, side and rear yards on interior, corner, reversed frontage, and through lots of
non-rectangular shape shall be identified and measured in accordance with Figure 19.34060. (Ord.

19.34.070 Lots not served by a water supply system and a waste water treatment plant. A lot not
served by a water supply system and a waste water treatment plant as defined in this title, shall have a
minimum lot area of one-half acre, except where a more restrictive minimum lot area is set forth in the
district regulations. (Ord. 204 Art. 17 §10, 1990).

19.34.080 Adult entertainment center. Notwithstanding anything in this zoning title to the contrary, an
adult entertainment center shall be permitted only in the 1-2 heavy industrial district and in no other
district, and then only if the center meets the following conditions:

(1) The center is located no closer than one thousand two hundred fifty feet from any
preexisting church, dwelling, or property zoned R-I, R-2, R-3, R-4 or agricultural;
(2) The center excludes from its premises those persons less than eighteen years of age;
(3) The center displays no signs visible from the exterior of the center, except for signs
identifying the center as an adult book store, adult cinema, or both;
(4) No materials depicting specified sexual activities or specified anatomical areas shall
be visible from the exterior of the center.
(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 police force who may wish to enter
thereon provided the entry is in the course of the discharge of the policeman’s duties. (Ord. 304 Art. 17
Chapter 19.36

SPECIAL PERMIT USES AND STRUCTURES

Sections:

19.36.010 Purpose--Generally. Special permit uses and structures are permitted only as temporary uses as expressly provided in this section. No special permit use or structure shall be established unless a zoning certificate evidencing the compliance of such use with the provisions of this section and other applicable provisions of this title shall have first been issued. Prior to issuance of a special use or structure permit the planning commission shall review the application for compliance with the provisions below. After reviewing the application, the planning commission shall send a recommendation to the city council. The city council shall decide upon the issuance of the permit along with any conditions deemed necessary. After issuance of a permit, the uses listed in this section may be operated as uses by special permit. (Ord. 304 Art. 17 §12 (part), 1990).

19.36.020 Application--Contents. The application for a special use shall contain:

1. The name and address of the applicant, person, firm, or organization responsible for the operation of the use;
2. A description of the location of the use or event including the land area, structure, or part of a structure to be occupied or otherwise utilized by the use or event; and the dates during which the use or event will take place;
3. A description of the activity for which the permit is being sought;
4. A statement on the hours of operation and the duration of the event or activity. (Ord. 304 Art. 17 §12(1), 1990).

19.36.030 Additional requirements. In addition to a filed application other requirements must be met prior to the granting of a permit, which are the following:

1. Documentation that adequate arrangement for temporary sanitary facilities shall be provided;
2. An electrical permit has been obtained and inspection made prior to the installation of temporary or permanent lighting;
3. The site shall be cleared of all debris at the end of the special event and cleared of all temporary structures within thirty days after the closing event. A cash bond for a minimum of twenty-five dollars and not to exceed five thousand dollars shall be posted, or a signed contract with a disposal firm shall be required as a part of the application for a special permit to insure that the premises will be cleared of all debris during and after the event;
4. Public parking for the exclusive use of the facility shall be provided, and a stabilized drive to the parking area shall be maintained. It shall be the responsibility of the applicant to guide traffic to these areas and to prevent patrons from unlawful parking;
5. Traffic control arrangements required by the police and Pierce county sheriff departments in the vicinity of major intersections shall be arranged by the applicant;
6. A cash bond for a minimum of twenty-five dollars and not to exceed five thousand dollars shall be posted with the city to insure the repair of any damages resulting to any public right-of-way as a result of the event;
7. Serving of alcoholic beverages shall not be permitted without a permit from the city council;
8. The principal use or structure, together with any special permit uses or structures, shall not jointly exceed the land use intensity as specified in the district regulations;
9. No signs in connection with a special use shall be permitted, except in accordance with the provisions of chapter 19.30;
(10) A recommendation regarding the special use or structure shall be received prior to the planning commission meeting from the appropriate township board if the special use or structure is located in the extraterritorial area. (Ord. 304 Art. 17 §12(2), 1990).

19.36.040 Uses and structures considered for special permits. The uses and structures to be considered for special permits are as follows:

(1) Temporary Shelter. When a fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted, subject to the following additional regulations:
   (A) Required water and sanitary facilities must be provided.
   (B) Maximum length of permit shall be six months, but the building official may extend the permit for a period or periods not to exceed sixty days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least fifteen days prior to expiration of the original permit.
   (C) The mobile home shall be removed from the property upon issuance of any occupancy permit for the new or rehabilitated residence. The applicant shall be required to provide express consent and authorization to the city to remove the shelter at the owner’s expense upon termination of the permit.

(2) Contractor’s Office and Construction Equipment Sheds. May be permitted in any district where the use is incidental to a construction project. The office or shed shall not contain sleeping or cooking accommodations. The maximum length of a permit shall be one year. The office or shed shall be removed upon the completion of the construction project.

(3) Real Estate Sales Office. May be permitted in any district for any new subdivision. A model home may be used as a temporary sales office. The office may contain sleeping or cooking accommodations, however, these accommodations shall not be used at anytime. The maximum length of a permit shall be one year. The office or shed shall be removed upon completion of the development of the subdivision.

(4) Public Gathering for a Single Purpose Event. May be permitted in an agricultural, or commercial district, provided that each permit shall be valid for a period of not more than five days.

(5) Bazaar, Carnival or Fair. May be permitted in agricultural district at other than a designated fairground, provided that each permit shall be valid for a period of not more than seven days. No structure or equipment shall be allowed within five hundred feet of any residential property line.

(6) Christmas Tree Sales. Maybe permitted in agricultural, commercial, or industrial districts. No permit shall be issued prior to November 15th of each year and each permit shall be valid for a period of forty-five days.

(7) Temporary Sales Stand. Maybe permitted in a commercial district for those types of businesses which sell goods from vehicles, trailers, or stands and are not a part of a permanent business establishment located on the premises. (Ord. 304 Art. 17 §12(3), 1990).
Chapter 19.38

CONDITIONAL USES

Sections:

19.38.010 Generally. Certain uses, while generally not suitable in a particular zoning district, may under certain circumstances, be acceptable. When such circumstances exist, a conditional use permit may be granted. The conditional use permit may be issued for a specified period of time, with automatic cancellation at the end of that time unless it is renewed, or conditions may be applied to the issuance of the permit and periodic review may be required to determine if the conditional use has any detrimental effects on neighboring uses or districts. The permit shall be granted for a particular use and not for a particular person or firm. (Ord. 304 Art. 19 (part), 1990).

19.38.020 Requirements for conditional uses. A conditional use permit may be granted following compliance with the procedure set forth in this section if the conditional use is one set forth in the district regulations, provided that no application for a conditional use shall be granted unless all of the following conditions are found to be present:

   (1) The conditional use will not be detrimental to or endanger the public health, safety or general welfare;

   (2) The existing permitted uses in the neighborhood will not in any manner be substantially impaired or diminished by the establishment of the conditional use;

   (3) The conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district;

   (4) Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided;

   (5) Adequate measures have or will be taken to provide access and exit so designed as to minimize traffic congestion in the public streets; and

   (6) The conditional use shall conform to all special provisions of the district in which it is located. (Ord. 304 Art. 19 §1, 1990).

19.38.030 Applications. Application for a conditional use permit shall be submitted by the property owner to the city auditor on forms provided by the city auditor. The application fee for the permit shall be set by resolution by the council. The application shall include:

   (1) The name and address of the applicant;

   (2) The date of the application;

   (3) A description of the site and its relationship to the surrounding area;

   (4) A preliminary map showing boundary lines and location of structures to be developed on the site;

   (5) Location of existing structures on adjacent property;

   (6) Parking plan showing off-street parking areas and/or loading areas;

   (7) Names and addresses of adjacent property owners;

   (8) Any reasonable information the planning commission deems necessary;

   (9) Payment of the required filing fee. (Ord. 304 Art. 19 §2, 1990)

19.38.040 Planning commission recommendation. The city auditor, upon receipt of an application for a conditional use permit, shall present the same to the planning commission at its next regular or special meeting, at which time a date within the next sixty days shall be set for a public hearing for the proposed conditional use. Following the public hearing, the planning commission shall consider the
application and make a recommendation to the city council within sixty days. (Ord. 304 Art. 19 §3, 1990).

19.38.050 Public notice. The city auditor shall publish a notice of the public hearing in the official city newspaper at least ten days before the hearing. Notice shall include the date, time, place and purpose of the hearing and shall be approved by the planning commission. In addition to the published notice, the planning commission may require that notice be mailed to those persons designated by the planning commission. (Ord. 304 Art. 19 §4, 1990).

19.38.060 City council. Upon receipt of the planning commission’s recommendations, or if the planning commission has not acted within the required time limits in Section 19.38.050, the city council shall hold a public hearing on the proposed conditional use. Following the public hearing, the city council may either grant the proposed conditional use, grant the proposed conditional use with additional conditions, or deny the proposed conditional use. (Ord. 304 Art. 19 §5, 1990).
Chapter 19.40

APPEALS AND VARIANCES

Sections:

19.40.010 Appeals—Types. Appeals may be made from any order, requirement, decision, or determination made by an administrative official charged with the enforcement of any provisions of this title or which may be made by the planning commission for which other review or approval procedures are not otherwise specifically established in this zoning title. The appeals may be of the following types:

(1) Administrative Review. To hear and decide on appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning title.

(2) Interpretation of Title. To interpret the provisions of this title in such a way as to carry out the intent and purpose of the adopted comprehensive city plan, and as shown upon the zoning district map fixing the several districts accompanying and made a part of this title, where the street layout actually on the ground varies from the street layout as shown on the zoning district map. (Ord. 304 Art. 20 §1, 1990).


(a) Appeals may be made by any person aggrieved, or by any officer of the city or any governmental agency or body affected by any decision of the building official administering the provisions of this zoning title.

(b) Appeals shall be made within a reasonable time by filing a notice of appeal specifying the grounds thereof and payment of the required filing fee.

(c) Appeals to this zoning title shall be prepared and submitted on forms furnished by the city.

(d) Upon receipt of the written notice of appeal and payment of the required fee, the planning commission shall advertise and hold a public hearing as required in Section 19.40.050.

(e) After a public hearing, the planning commission shall make a recommendation on the appeal to the city council within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(f) The planning commission shall send written findings of fact, based on evidence and testimony, to the city council specifying the reason for their recommendation, a copy of which shall be filed in the office of the city auditor, to be available for public inspection.

(g) Upon receiving the recommendation of the planning commission the city council shall advertise and hold a public hearing, as required in Section 19.40.050. Upon the hearing, any party may appear in person or by agent or by attorney.

(h) The city council shall decide the appeal within a reasonable time.

(i) The city council may reverse or affirm, in whole or in part, or may modify, the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end, the city council shall have all the powers of the officer from whom the appeal is taken. The concurring vote of six members of the council shall be necessary to reverse any order, requirement, decision or determination of any such officer.

(j) Where there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of this title, the city council, in passing upon an appeal, may vary or modify any of the
regulations or provisions of this title relating to the use, construction, or alteration of buildings or structures or the uses of land so that the spirit of this title shall be observed, public safety and welfare secured, and substantial justice done.

(k) An appeal to the city council stays all proceedings in furtherance of the action appealed from unless the officer, from whom the appeal is taken, certifies to the city council that by reason of the fact stated in the certificate a stay, in their opinion, would cause imminent peril to life or property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the city council or by a court of record on application and on due cause shown after notice to the officer from the appeal is taken.

(l) Notice of the decision of the city council shall be in writing and transmitted to the appellant. A copy of such decision shall also be transmitted to the building official or planning commission for action, if action is required.

(m) Any person, official or governing agency dissatisfied with any order or determination of the city council may appeal the decision by writ of certiorari to the district court of the county within fifteen days after notice of the decision of the city council under the provision of Section 40-47-11 of the North Dakota Century Code. (Ord. 304 Art. 20 §2, 1990).

19.40.030 Variances--Conditions.

(a) A variance is the relaxation of the terms of the zoning title in relation to height, area, size, and open space, of specific lots where specific physical conditions, unique to the site, would create an unreasonable hardship in the development of the site for permitted uses.

(b) A variation in the yard, setback, and height requirements of any district may be permitted where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, or topographical or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare or where variations may be permitted which allow unusual arrangement on the lot and still clearly and unmistakably accomplish the intent of this title.

(c) A variance from the terms of this title shall not be granted unless and until a written application for a variance is submitted demonstrating:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

2. That literal interpretation of the provision of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title;

3. That the special conditions and circumstances do not result from actions of the applicant;

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the same district;

5. That granting the variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable or unusual hardship or difficulty.

(d) In granting a variance, the city council must find that the variance is in harmony with the intended spirit and purpose of this zoning title and does not constitute a direct and obvious amendment to the district regulations or district boundaries.

(e) In exercising the above powers, the city council may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination appealed from the building official. The council may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the same powers as the building official from whom the appeal is taken. If the city council approves the variance they shall notify the building official of their decision and shall instruct him to issue a permit.

(f) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(g) In granting any variance, the city council may prescribe appropriate conditions and safeguards in conformity with this title. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a
violation of this title and punishable under Chapter 19.44. Under no circumstances shall the city council grant a variance to allow a use not permissible under the terms of this title in the district involved, or any use expressly or by implication prohibited by the terms of this title in the district. (Ord. 304 Art. 20 §3, 1990).

19.40.040 Variances--Procedures.  
(a) Applications for a variance from the terms of this title shall be made on forms provided by the city.  
(b) Upon receipt of the application and required filing fee, the planning commission shall advertise and hold a public hearing as required in Section 19.40.050.  
(c) Upon the hearing, any party may appear in person or by agent or by attorney.  
(d) After a public hearing the planning commission shall make a recommendation to the city council within a reasonable time. The planning commission shall send written findings of fact, based on testimony and evidence, specifying the reason for their recommendation, a copy of which shall be filed in the office of the city auditor, to be available for public inspection.  
(e) Upon receiving the recommendation of the planning commission, the city council shall approve or deny the request. Upon the hearing any party may appear in person or by agent or by attorney.  
(f) The city council shall grant or deny the variance within a reasonable time. The council may modify the recommendation of the planning commission, in whole or in part, and shall make such order, requirement, decision, or determination as in its opinion ought to be made.  
(g) Notice of the decision of the city council shall be in writing and sent to the applicant. A copy of such decision shall also be sent to the building official for action, if action is required.  
(h) Every variance granted or denied by the city council shall be accompanied by the written finding of fact, based on testimony and evidence and specifying the reason for granting or denying the variance, a copy of which shall be filed in the office of the city and/or the county auditor, to be available for public inspection.  
(i) Any person, official, or governing agency dissatisfied with the decision of the city council may appeal the decision by writ of certiorari to the district court of Pierce County within fifteen days after notice of the decision of the city council under the provision of Section 40-47-11 of the North Dakota Century Code. (Ord. 304 Art. 20 §4, 1990).

19.40.050 Public hearing and notice.  The planning commission shall fix a reasonable time for the hearing of an appeal or variance. Notice of the time, place, and subject of such hearing shall be published once in the official city newspaper at least ten days prior to the date fixed for the hearing. A copy of the notice shall be mailed to each party to the appeal or variance. (Ord. 304 Art. 20 §5, 1990).

19.40.060 Records.  Records shall be kept on all appeals and variances. The records shall show evidence presented, findings of fact, decisions, and voting upon each question. Records of all official actions on appeals and variances shall be filed with the city auditor and shall be a public record. (Ord. 304 Art. 20 §6, 1990).

19.40.070 Filing fee.  For the purpose of wholly or partially defraying the cost of the proceedings prescribed herein, including publication costs, the applicant, upon filing an appeal, shall pay to the city auditor a fee in the amount set by resolution by the city council. Promptly upon receiving the appeal and required filing fee, the city auditor shall refer the appeal to the city council. (Ord. 304 Art. 20 §7, 1990).
Chapter 19.42

AMENDMENTS

Sections:

19.42.010 Amendments. The city council may from time to time amend, supplement, or change the district boundaries or regulations contained in this zoning title. A proposal for an amendment or a change in zoning may be initiated by the city council, by the planning commission, or upon application for the owner of the property affected. All such proposed changes shall be submitted to the planning commission for recommendation and report. The planning commission shall prepare final written findings which shall be submitted to the city council within ninety days after the time of referral of the proposed amendment to the planning commission. (Ord. 304 Art. 21 §1, 1990).

19.42.020 Applications. The party desiring any change in zoning district boundaries or regulations contained in this zoning title as to any lot, tract or area of land, shall file with the city auditor an application upon forms provided, and such application shall be accompanied by such data and information as may be prescribed by the planning commission. (Ord. 304 Art. 20 §2, 1990).

19.42.030 Filing fee. For the purpose of wholly or partially defraying the costs of the proceedings prescribed herein, including publication costs, the applicant, upon filing of the application, shall pay to the city auditor a fee in the amount set by the city council by resolution. Promptly upon the filing of an application, the city auditor shall refer the application to the planning commission for study and recommendation and shall report to the city council concerning the nature of the application and that the application has been referred to the planning commission. (Ord. 304 Art. 20 §3, 1990).

19.42.040 Public hearing and notice. (a) Before the planning commission shall, by proper action, formulate its recommendation to the city council on any such proposed or requested change of zoning district boundary or regulation, whether initiated by the city council, the planning commission, or by the property owner, the planning commission shall hold a public hearing on such proposal. The secretary of the planning commission shall cause a notice of public hearing to be published once a week for two successive weeks prior to the time set for the hearing in the official city newspaper. Such notice shall contain:

(1) The time and place of the hearing;
(2) A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected;
(3) A description of the nature, scope and purpose of the proposed regulation, restriction, or boundary;
(4) A statement of the times at which it will be available to the public for inspection and copying at the office of the city auditor.

(b) In addition to the publication, the planning commission shall send written notice of the proposed zoning boundary changes to all owners of property within the area proposed to be changed and to property owners within one hundred fifty feet of the area proposed to be changed. (Ord. 304 Art. 20 §4, 1990).

19.42.050 City council approval. Upon receipt of the required final written findings from the planning commission on any amendment, or in the event of the failure of the planning commission to so report after ninety days after the time of the referral of the proposed amendment to the planning commission, the city council shall hold a public hearing. Notice of the public hearing shall be published once a week
for two successive weeks prior to the time set for the hearing. The notice shall contain the same
information required for the planning commission public hearing listed above. (Ord. 304 Art. 20 §5,
1990).

19.42.060 Protest. If a protest against a change, supplement, modification, amendment, or repeal is
signed by the owners of twenty percent or more: (1) of the area of lots included in such proposed
change, or (2) of the area adjacent, extending one hundred fifty feet (45.72 meters) from the area to
be changed, excluding the width of the streets, the amendment shall not become effective except by
the favorable vote of three-fourths of all members of the city council, provided that protests in writing
must be filed with the city auditor prior to the time set for the hearing. If no protest is filed, a majority
decision of the city council shall be sufficient. (Ord. 304 Art. 20 §6, 1990).
Chapter 19.44

ADMINISTRATION AND ENFORCEMENT

Sections:

19.44.010 Enforcement.
19.44.020 Building permits required.
19.44.030 Certificate of occupancy/zoning compliance.
19.44.040 Complaints.
19.44.050 Violations.
19.44.060 Penalty.
19.44.070 Schedule of fees, charges and expenses.

19.44.010 Enforcement.
(a) The city building official shall administer and enforce this zoning title. Appeals from the decision of the building official may be made to the city council.
(b) If the building official shall find that any of the provisions of this title are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this title to insure compliance with or to prevent violation of its provision. (Ord. 304 Art. 18 §1, 1990).

19.44.020 Building permits required. No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the city building official. No building permit shall be issued by the city building official except in conformity with the provisions of this title.

(1) Application for Building Permits. Each application for a building permit shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected and building(s) presently on the lot if any. The application shall include other information as may be necessary to provide for the enforcement of this title. A record of applications and plans shall be kept in the office of the building official. One copy of the plans shall be returned to the applicant after the building official shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original similarly marked, shall be retained by the building official.

(2) Expiration of Building Permit.
(A) If the work described in any building permit has not begun within one hundred eighty days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the building inspector, and written notice thereof shall be given to the persons affected.
(B) If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, the permit shall expire and be cancelled by the building official and written notice shall be given to the persons affected, together with the notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

(3) Construction and Use. Building permits or certificates of occupancy issued on the basis of plans and applications approved by the building official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be a violation of this title, and punishable as provided by Section 19.44.060. (Ord. 304 Art. 18 §2, 1990).

19.44.030 Certificate of occupancy/zoning compliance.
(a) It is unlawful to use, occupy, or permit the use or occupancy of any building, land, water or combination, or a part thereof, hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure, until a certificate of occupancy (zoning compliance) shall have been issued therefore by the building inspector stating that the proposed use of the building
or land conforms to the requirements of this title. No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a certificate of occupancy and the certificate shall be issued in conformity with the provisions of this title upon completion of the work.

(b) The building inspector shall maintain a record of all certificates of occupancy and a copy shall be furnished upon request to any person. (Ord. 304 Art. 13 §3, 1990).

19.44.040 Complaints. Any person may file a written complaint whenever a violation of this title occurs, or is alleged to have occurred. Such complaint shall state the cause and basis thereof and be filed with the building official. The building official shall record the complaint, promptly investigate, and take action thereon as provided by this title. (Ord. 304 Art. 13 §4, 1990).

19.44.050 Violations.
(a) If any building or structure is erected, reconstructed, repaired, altered, enlarged, converted, maintained, or moved; or if any building, structure or land is used in violation of this title, the building official shall order in writing the correction of such violation.
(b) The building official, city attorney, or other official designated by the city council shall or any affected citizen or property owner may institute appropriate action or proceedings for the purpose of:
   (1) Prosecuting any violation;
   (2) Restraining, correcting or abating such violation;
   (3) Preventing the occupancy of any building, structure or land in violation of this title;
   (4) Preventing any illegal act, conduct, businesses, or use in or about any buildings, structure or land in violation of this title. (Ord. 304 Art. 18 §5, 1990).

19.44.060 Penalty. (a) Any person, firm, or corporation violating the provision of this title shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine or penalty not to exceed five hundred dollars or by imprisonment not to exceed thirty days, or both such fine and imprisonment. The court shall have the power to suspend the sentence and to revoke suspension thereof. Each day any violation shall exist, shall constitute a separate offense.
(b) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 304 Art. 18 §6, 1990).

19.44.070 Schedule of fees, charges and expenses.
(a) The city council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this title. The schedule of fees shall be posted in the office of the building official and may be altered or amended only by the city council.
(b) Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. (Ord. 304 Art. 18 §7, 1990).