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CHAPTER ONE

CITY GOVERNMENT

ARTICLE 1 - Jurisdiction

1.0101 Over Persons and Property

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

1.0102 Defining City Limits

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

(Source: North Dakota Century Code Section 40-06-01)

The following annexations to the City of Reile's Acres have occurred:

- A. The following described property located in Section 21, Township 140 North, Range 49 West, Cass County, North Dakota, is hereby annexed to the City of Reile's Acres, Cass County, North Dakota:

That part of the East ½ of Section 21, Township 140 North, Range 49 West of the 5th P.M., Cass County, North Dakota, described as follows: Commencing at the Southeast corner of said Section 21; thence N 0°00'00" E along the East line of said Section 21 for a distance of 1713.24 feet to the point of beginning; thence continue N 0°00'00" E along the East line of said Section 21 for a distance of 1510 feet; thence N 90°00'00" W perpendicular to the East line of said Section 21 for a distance of 796.27 feet; thence S 0°00'00" W parallel to the East line of said Section 21 for a distance of 1435.36 feet; thence N 90°00'00" W for a distance of 846.03 feet; thence S 0°00'00" W for a

distance of 263.93 feet to the Northwest corner of Reile's Acres Second Subdivision in the City of Reile's Acres; thence S 89°40'00" E along the North line of said Reile's Acres Second Subdivision for a distance of 846.04 feet; thence S 87°19'50" E along the North line of Reile's Acres First Subdivision for a distance of 371.24 feet; thence N 0°00'00" E for a distance of 213.98 feet; thence S 89°40'00" E for a distance of 425.44 feet to the point of beginning. Said tract contains 36.63 acres, more or less all situate in the County of Cass and State of North Dakota.

(Source: Ordinance NO. 1; 1977)

- B. The following described property located in Section 21, Township 140 North, Range 49 West, Cass County, North Dakota, is hereby annexed to the City of Reile's Acres, Cass County, North Dakota:

That part of the East Half (E ½) of Section Twenty One (21), Township One Hundred Forty (140) North, Range Forty Nine (49) West, Cass County, North Dakota described as follows:

Commencing at the Southwest corner of the East half (E ½) of said section Twenty one (21); thence North along the West line of the East half (E1/2) of Section Twenty one (21) to a point on the south right-of-way of Cass County Highway No. 20, being seventy five (75.00) feet south of the North line of said Section Twenty One (21); thence East along the south right-of-way of said Cass County Highway NO. 20 to a point on the East line of said Section Twenty One (21), being seventy five (75.00) feet south of the Northeast corner of said Section Twenty One (21); thence South along the East line of said Section Twenty One (21) to the Northeast corner of Reile's Acres Third Addition to the City of Reiles' Acres; thence West along the North line of Reile's Acres Third Addition for a distance of seven hundred ninety six and twenty seven hundredths (796.27) feet; thence South along the West line of Reile's Acres Third Addition for a distance of one thousand four hundred thirty five and thirty six hundredths (1435.36) feet; thence West along the North line of Reile's Acres Third Addition for a distance of eight hundred forty six and three hundredths (846.03) feet; thence South along the West line of Reile's Acres Third Addition and Reile's Acres Second Subdivision for a distance of one thousand seven hundred seventy eight and fifty hundredths (1778.50) feet to a point on the South line of said Section Twenty One (21); thence West along the South line of said Section Twenty One (21) to the Southwest corner of the East half (E ½) of said Section Twenty One (21), the point of beginning. Said tract contains 222.0 acres, more or less, all situate in the County of Cass and the State of North Dakota.

(Source: Ordinance NO. 31; 1991)

- C. The following described property located in Section 22, Township 140 North, Range 49 West, Cass County, North Dakota, is hereby annexed to the City of Reile's Acres, Cass County, North Dakota:

The West Thirty Three (33.00) Feet of West Half of the West Half (W ½ W ½) of Section Twenty Two (22), Township One Hundred Forty (140) North, Range Forty Nine (49) West, Cass County, North Dakota less the North Seventy Five (75.00) Feet thereof for highway right-of-way of record. Said tract contain 3.94 acres, more or less.

(Source: Ordinance NO. 37; 1992)

1.0103 Division of City into Precincts

There shall be one precinct within the City to be known and designated all that part of the City which lies within the boundaries.

1.0104 City Fines and Penalties Limited

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

This section shall not be construed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provided by NDCC Section 12.1-32-02 for the violation of a City ordinance, nor shall this section limit the use of deferred or suspended sentences pursuant to NDCC Chapter 12.1-32.

ARTICLE 2 - Governing Body - City Council

1.0201 Regular Meetings

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

1.0202 Special Meetings

Special meetings may be called at any time by the mayor or any two (2) members of the governing body to consider matters mentioned in the call of such meetings. Notice of any special meeting shall be given to each member of the governing body at least three hours before the time of the meeting.

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

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

1.0204 Quorum

The provisions of Section 40-06-03 of the North Dakota Century Code and all subsequent amendment shall be and are hereby incorporated by reference in this ordinance.

A majority of the members of the governing body of a municipality shall constitute a quorum to do business but a smaller number may adjourn from time to time. The governing body may compel the attendance of absentees under such penalties as may be prescribed by ordinance, and may employ the police of the municipality for that purpose.

1.0205 Reconsidering or Rescinding Votes at Special Meeting

The provisions of Section 40-06-04 of the North Dakota Century Code and all subsequent amendments shall be and hereby are incorporated by reference in this ordinance.

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

1.0206 Rules and Order of Business

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

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

ARTICLE 3 - Elective Officers

1.0301 City Council - Who Constitutes

The governing body of the City shall be the City Council which shall be composed of the mayor and council members. The mayor and four council members shall be elected as provided by law.

(Source: North Dakota Century Code Sections 40-08-01,03)

1.0302 Term of Office of Council Members

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

1.0303 Mayor - Qualifications - Term

The chief executive officer of the City is the mayor. The mayor shall be a qualified elector within the City and shall hold office for four years and until a successor is elected and qualified.

(Source: North Dakota Century Code Section 40-08-14)

1.0304 When President and Vice President of a Council are Elected

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

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

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

the council or its representative before 4:00 p.m. on the fifteenth (15th) day after the vacancy occurs or after the vacancy was filled by appointment.

(Source: North Dakota Century Code Section 40-08-08)

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

(Source: North Dakota Century Code Section 40-08-16)

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

During the absence of the mayor from the City or during his temporary disability, the president of the City Council shall be the acting mayor and shall possess all of the powers of the mayor. In the absence or disability of the mayor and the president of the City Council, the vice president of the City Council shall be the acting mayor.

(Source: North Dakota Century Code Section 40-08-13)

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

The mayor shall preside at all meetings of the City Council, but shall not vote except in case of a tie, when he shall cast the deciding vote.

(Source: North Dakota Century Code Section 40-08-18)

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

The mayor may remove any office appointed by him whenever he is of the opinion that the interests of the City demands such removal, but he shall report the reasons for such removal to the council at its next regular meeting.

(Source: North Dakota Century Code Section 40-08-19)

1.0309 Mayor may Suppress Disorder and Keep Peace

The mayor may exercise within the City limits the powers conferred upon the sheriff to suppress disorder and keep the peace.

(Source: North Dakota Century Code Section 40-08-20)

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

The mayor shall perform all duties prescribed by law or by the city ordinances, and shall see that the laws and ordinances are faithfully executed.

(Source: North Dakota Century Code Section 40-08-22)

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

The mayor, at any time, may examine and inspect the books, records and papers of any agent, employee or officer of the City.

(Source: North Dakota Century Code Section 40-08-23)

1.0312 Ordinance or Resolution Signed or Vetoed by Mayor

The mayor shall sign or veto each ordinance or resolution passed by the council.

(Source: North Dakota Century Code Section 40-08-24)

1.0313 Message to Council

The mayor annually and from time to time shall give the council information relative to the affairs of the City and shall recommend for consideration such measures that he may deem expedient.

(Source: North Dakota Century Code Section 40-08-25)

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

When necessary, the mayor may call on each male inhabitant of the City over the age of eighteen years to aid in the enforcing of the laws and ordinances of the City.

(Source: North Dakota Century Code Section 40-08-26)

1.0315 Police Chief and Policemen Appointed by Mayor

The mayor may appoint any number of policemen which he and the City Council may deem necessary to preserve the peace of the City, and he shall appoint one of the number as chief of police. Such appointment shall be subject to approval of the council.

(Source: North Dakota Century Code Section 40-08-27)

1.0316 Mayor May Administer Oath

The mayor of the City may administer oaths and affirmations.

(Source: North Dakota Century Code Section 40-08-28)

ARTICLE 4 - Elective Officers Other Than Governing Body

1.0401 Municipal Judge

There shall be elected each four years a municipal judge who shall hold office until a successor is elected and qualified. The municipal judge shall perform all the duties prescribed by law and the

ordinances of this City. The municipal judge shall receive an annual salary as full compensation for all services rendered.

1.0402 Report to the City Council

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

1.0403 Contents of Report

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

1.0404 Receipt to Accompany Report

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

1.0405 Court Hours

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

1.0406 Duties of Municipal Judge

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

ARTICLE 5 - Appointive Offices

1.0501 Appointive Officers in Council Cities

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

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

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

(Source: North Dakota Century Code Section 40-14-04)

1.0502 Term of Appointive Officers

The term of all appointive officers of the City operating under the council form of government shall commence the first day of July succeeding their appointment unless otherwise provided by ordinance, and such officers shall hold their respective offices for two years, and until their successors are appointed and qualified.

1.0503 Officers Commissioned by Warrant - City Auditor to Receive Certificate of Appointment

All officers elected or appointed, except the city auditor, council members and mayor, shall be commissioned by warrants signed by the auditor and the mayor or president of the City Council. The mayor shall issue a Certificate of Appointment to the auditor.

(Source: North Dakota Century Code Section 40-14-06)

1.0504 General Duties of City Auditor

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

(Source: North Dakota Century Code Section 40-08-10; North Dakota Century Code Section Chapter 40-16)

1.0505 General Duties of City Attorney

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

1.0506 General Duties of Other Appointive Officers

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

ARTICLE 6 - Special Provisions Regarding City Officers

1.0601 Bonds of Municipal Officers and Employees

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

Mayor:

city auditor: \$150,000.00

municipal judge:

city assessor:

Said officers or employees shall be bonded in accordance with the provisions of Section 40-13-02 and Chapter 26.1-21 of the North Dakota Century Code. The City Council may by resolution identify the amount of bond required for Mayor, municipal judge, city assessor, and others employees.

1.0602 Oaths of Municipal Officers

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

(Source: North Dakota Century Code Section 40-13-03)

1.0603 Salaries of Elected Officers Fixed by Ordinance or Resolution

Any elected officer of this City shall receive the salary, fees or other compensation fixed by ordinance or resolution within the limitations set by NDCC sections 40-08-07, 40-08-15 and 40-18-06.

1.0604 Salaries of Appointive Officers and Employees

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

1.0605 Meals and Lodging - Amount Allowed

Each elective or appointive officer, employee, representative, or agent of this City, or of any of its subdivisions, boards or commissions may make claim and shall upon approval of such claim, be paid as an allowance for meals and lodging while engaged within this State, in the discharge of a public duty away

from their normal working and living residence for all or any part of any quarter of a day at the rates specified by state law.

Verifications of claims shall not be required for the first three quarters listed above and only a lodging receipt shall be required for the fourth quarter.

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

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

1.0606 Personal Interest in Contract by Public Officer - Prohibited

No contract for the furnishing of supplies to the City, or buying of property from the City shall be entered into by any officer of the municipality, provided, however, that such contracts may be entered into with an officer of the City, if such contract is unanimously approved by other members of the governing body of the City by a finding unanimously adopted by such other members, and entered in the official minutes of the governing body, to be necessary for the reason that the services or property are not otherwise available at equal cost. (Source: North Dakota Century Code Section 40-13-05)

1.0607 Retiring Officer to Turn Over Books

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

1.0608 Administrative Policy and Procedure

PERFORM DUTIES. Each officer shall:

1. Perform all duties required of his office by law or ordinance and such other duties not in conflict as may be required by the governing body.

2. Be immediately responsible to the governing body for the effective administration of their departments and all activities assigned thereto.
3. Keep informed as to the latest practices in their particular field and shall inaugurate with approval of the governing body such new practices as appear to be of benefit to the service and to the public.
4. Submit such reports of activities of their departments as the governing board may request.
5. Be responsible for the proper maintenance of all City property and equipment used in their departments.
6. Establish and maintain records in sufficient detail to furnish all information needed for proper control of department activities and to form a basis for reports to the governing board.
7. Cooperate with other officers, departments and employees.
8. Have power to direct and supervise all department subordinates.
9. Be available during the hours designated by the City governing body.

1.0609 Obstructing a Public Official - Prohibited

Every person who willfully delays or obstructs a public officer in the discharge or attempt to discharge any duty of his office shall be guilty of an infraction. Upon conviction, for a violation of this section, such person shall be fined not more than \$500.00.

ARTICLE 7 - Purchasing and Disposition of Property

1.0701 Competitive Bidding Requirements

All purchase of and contracts for supplies and contractual services with a cost in excess of one hundred thousand dollars shall be based on competitive bids.

1.0702 Procedure

All supplies and contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed \$100,000.00 shall be purchased from the lowest responsible bidder after due notice inviting proposals. Due notice shall be given by advertising for the sale or purchase of the property or service by giving written notice in the official newspaper of the City for three (3) consecutive weeks and the opening of the bids so received not less than 21 days after the first publication thereof. The lowest responsible bidder shall be the 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.

1.0703 Open Market Purchases - Emergency

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

1.0704 Accounts Against City to be in Writing

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

1.0705 Further Verification May be Required

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

1.0706 Conveyance, Sale, Lease or Disposal of Property

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

1. Lease of airports or landing fields, or portions thereof shall be under authority granted in Section 2-02-15, NDCC. Said lease shall further be in compliance with regulations and directives appropriate federal agencies.
2. Conveyance of right of way for any state highway shall be as provided in Section 24-01-46, NDCC.
3. Leasing of oil and gas lands shall be as provided in Sections 38-09-02 through 38-09-04 and Sections 38-09-14 through 38-09-20, NDCC.
4. Conveyance of property to a municipal parking authority shall be as provided in Section 40-61-05, NDCC.
5. Lease of public buildings or portions thereof shall be as provided in Chapter 48-08, NDCC.
6. Granting of concessions for cafes, restaurants and confectioneries in public buildings or on public grounds shall be as provided in Chapter 48-09, NDCC.
7. Granting of right-of-way for a railway, telephone lines, electric light system or a gas or oil pipeline system shall be as provided in Section 49-09-16, NDCC.

1.0707 Real Property Transfer Requirements

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

ARTICLE 8 - Municipal Elections

1.0801 Qualified Electors in Municipal Elections - Restrictions

The provisions of Section 40-21-01 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Every resident of a municipality who is qualified to vote therein at general elections may vote at all municipal elections held therein. When elections are held by wards or precincts, no person may vote in any place other than the ward or precinct of which he is a resident.

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

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

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

1.0803 Designation of Polling Places for Municipal Elections

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

1.0804 Compensation of Inspectors, Judges and Clerks at Municipal Elections

The provisions of Section 40-21-05 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Each inspector, judge or clerk of any regular or special municipal election shall receive compensation as determined for election officials in Section 16.1-0505. The amounts determined to be due election officials at municipal elections shall be paid from the funds of the municipality holding the

election. In the event a special municipal election is held on the same date as a statewide, district wide or countywide election, and if the same election officials perform services for both elections, the City shall not be required to pay the elections officials, except for any extra officials necessary for such special municipal election.

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

The provisions of Section 40-21-06 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

No reference shall be made to a party ballot or to the party affiliation of a candidate in a petition to be filed or in behalf of a candidate for nomination to a public office in any incorporated City in this state.

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

The provisions of Section 40-21-07 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

A candidate for any public office in the City may be nominated by filing with the city auditor, at least sixty days and before four p.m. on the sixtieth day prior to the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last City election. Qualified electors who sign such a petition shall reside within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or within the corporate limits of the City if the officer is elected at large. If a petition is mailed, it shall be in the possession of the city auditor before four p.m. on the sixtieth day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each qualified elector who signs a petition shall add to the petition the petitioner's mailing address. If a City election is not held in conjunction with a state or county election, a candidate may be nominated by filing the required petition with the city auditor at least thirty-three days and before four p.m. on the thirty-third day before the holding of the election.

1.0807 Ballots in Municipalities - Makeup

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

The auditor of the City shall place only the names of the persons nominated upon the ballot. The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The

auditor shall determine the arrangement of the names of the candidates upon the ballot by conducting a drawing within five days following the last day for the filing of the nomination papers. The city auditor shall set the date, time and location for conducting the drawing and shall give advance notice of the drawing to the candidates involved.

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

The provisions of Section 40-21-11 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

When necessary, the judges of election at a municipal election shall appoint clerks to fill vacancies. The judges and clerks of a municipal election shall take the same oath and have the same powers and authority as judges and clerks of general state elections.

1.0809 Counting Ballots - Returns - Canvass of Returns by Governing Body of Municipality - Agreement with the County

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

The ballots cast in a municipal election shall be counted and the returns of the election prepared by the election board immediately after the closing of the polls. The ballots and the returns of the election shall be returned to the city auditor under seal within two days and before four p.m. on the second day after the election. Thereafter, the governing body of the municipality shall canvass the returns and declare the result of the election and cause a statement thereof to be entered in its books of minutes.

When a City election is held in conjunction with a state or county election, the City governing body shall enter into an agreement with the governing body of the county concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices and the apportioning of election expenses.

1.0810 Municipal Elections to be Governed by Rules Applicable to County Elections - Absent Voting

The provisions of Section 40-21-13 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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

1.0811 City Auditor to Notify of Election or Appointments

The provisions of Section 40-21-14 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The city auditor, within five days after the result of an election is declared or the appointment of an officer is made within the municipality, shall notify each person elected or appointed to municipal office of his election or appointment. Within the same period of time, the city auditor shall also notify the state Supreme Court of the election or appointment of any municipal judge or alternate judge.

1.0812 New Election Upon Failure to Elect

The provisions of Section 40-21-15 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

If there is a failure to elect an officer required to be elected, the governing body of the municipality may order a new election.

1.0813 Special Elections Conducted in Same Manner as General Elections

The provisions of Section 40-21-16 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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

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

The provisions of Section 40-21-17 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The person having the highest number of votes for any municipal office shall be declared elected to such office. In case of a tie vote in the election of any municipal officer, a recount must be conducted pursuant to Section 16.1-16-01 of the North Dakota Century Code. If a recount results in a tie vote, the choice shall be determined by a coin flip in the presence of the governing body of the municipality and in such manner as it shall direct.

ARTICLE 9 - Records Management Policy

1.0901 Adoption of Policy

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

1.0902 Amendments, Deletions, Additions to City Records Management Manual

Sec. _____ shall be amended to read as follows:

Sec. _____ shall be deleted.

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

CHAPTER TWO

ENACTING AND ENFORCING ORDINANCES

ARTICLE 1 - Procedure

- 2.0101 Enacting Clause for Ordinances
- 2.0102 Procedure in Passing Ordinances
- 2.0103 Yea and Nay Vote on Passage - When Required
- 2.0104 Reconsideration or Rescinding Vote
- 2.0105 Publication of Ordinances
- 2.0106 Effective Date of Ordinances
- 2.0107 Effect of Repeal
- 2.0108 Enactment and Revision of Ordinances
- 2.0109 Action for Violation of Ordinance in Corporate Name - Previous Prosecution, Recovery or Acquittal - No Defense
- 2.0110 Summons to Issue on Violation of Ordinance - When Warrant of Arrest to Issue
- 2.0111 Commitment of Guilty Person for Non-payment of Fines or Costs
- 2.0112 Costs of Prosecution
- 2.0113 Judgment of Conviction
- 2.0114 Refusal to Work
- 2.0115 Fines and Forfeitures for Violation of Ordinances Paid into Municipal Treasury
- 2.0116 Deferring or Suspending Sentence

CHAPTER TWO

ORDINANCES

ARTICLE 1 - Procedure

2.0101 Enacting Clause for Ordinances

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

(Source: North Dakota Century Code Section 40-11-01)

2.0102 Procedure in Passing Ordinances

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

(Source: North Dakota Century Code Section 40-11-02)

2.0103 Yea and Nay Vote on Passage - When Required

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

(Source: North Dakota Century Code Section 40-11-03)

2.0104 Reconsideration or Rescinding Vote

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

(Source: North Dakota Century Code Section 40-06-04)

2.0105 Publication of Ordinances

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

(Source: North Dakota Century Code Section 40-11-06)

2.0106 Effective Date of Ordinances

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

(Source: North Dakota Century Code Section 40-11-07)

2.0107 Effect of Repeal

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

2.0108 Enactment and Revision of Ordinances

The provisions of Section 40-11-09 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The executive officer of a municipality may appoint, by and with the advice and consent of the governing body of the municipality, one or more competent persons to prepare and submit to the governing body for its adoption or rejection, an ordinance for the revision or amendment of existing ordinances or for the enactment of new and additional ordinances for such municipality. The attorney for the municipality, if

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

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

The provisions of Section 40-11-10 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Any action brought to recover any fine, to enforce any penalty or to punish any violation of an ordinance of any municipality shall be brought in the corporate name of the municipality as plaintiff. A prosecution, recovery or acquittal for the violation of any such ordinance may not constitute a defense to any other prosecution of the same person for any other violation of any such ordinance, notwithstanding that the different claims for relief existed at the time of the previous prosecution and, if united, would not have exceeded the jurisdiction of the court.

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

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

In all actions for the violation of an ordinance, the first process shall be a summons, but a warrant for the arrest of the offender shall be issued upon the sworn complaint of any person that an ordinance has been violated and that the person making the complaint has reasonable grounds to believe the person charged is guilty of such violation. Any person arrested under a warrant shall be taken without unnecessary delay before the proper officer to be tried for the alleged offense.

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

The provisions of Section 40-11-12 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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

sole reason for his nonpayment of fine or costs, or both, is his indigence. An order of commitment under this section shall not be for a period in excess of thirty days. As used in this section, "fine" does not include a fee established pursuant to subsection 2 of Section 40-05-06.

2.0112 Costs of Prosecution

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

2.0113 Judgment of Conviction

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

2.0114 Refusal to Work

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

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

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

2.0116 Deferring or Suspending Sentence

The municipal judge may, 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, or defer imposition of sentence or suspend the sentence imposed on such person for a period of not to exceed ninety (90) days from the date of such conviction. The municipal judge 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, or may suspend or defer such sentence upon such terms and conditions as the judge may prescribe. The municipal judge may, 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.

CHAPTER THREE

PUBLIC PORPERTY, SIDEWALKS, STREETS, AND PARKS

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- 3.0102 Construction and Repair - Permits
- 3.0103 Bond
- 3.0104 Specifications
- 3.0105 Duty of Owner to Maintain
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- 3.0107 Standards for Issuance of Permit
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CHAPTER THREE

PUBLIC PLACES AND PROPERTY

ARTICLE 1 - Construction and Repair

3.0101 Supervision

All construction maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the city engineer or street commissioner. He shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinance.

3.0102 Construction and Repair - Permits

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

3.0103 Bond

Each applicant shall file a bond in the amount of 100% of the project cost with surety to be approved by the governing body conditioned to indemnify the City for any loss or damage resulting from the work undertaken or the manner of doing the same.

3.0104 Specifications

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

3.0105 Duty of Owner to Maintain

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

3.0106 Application for Permit

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

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

3.0107 Standards for Issuance of Permit

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

1. That the work will be done according to the standard specifications of the City for public work of like character.

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

3.0108 Boulevard Sidewalks and Driveways in Reile's Acres 9th Addition.

Notwithstanding the provisions of 40-29-02 of the North Dakota Century Code, the duty to construct, reconstruct and maintain sidewalks in the City of Reiles Acres shall be as follows:

- A. Required.** The City shall construct boulevard sidewalks in the following areas: Reile's Acres Ninth Addition lots 1,2,3,4 in Block 2, lots 1,2,3,4,5,6,7,8 in Block 3, lots 6,7,8 in Block 4, lots 1,2,3,4,5 in Block 6, lots 1,2,3,4,5,6,7,8,9,10 in Block 7, lots 2,3,4,5,12,13,14,15,16 and the north and south property line of lot1 in Block 9. The City shall be responsible for the coordination and cost of construction, inspection and any materials testing related to the installation of sidewalks. The City will charge a sidewalk fee of \$2,000.00 on each building permit in Reiles Acres 9th Addition to cover the cost related the construction and maintenance of the sidewalks and ADA ramps.
- B. Good Repair.** Sidewalks are seen to benefit the whole Reiles Acres 9th Addition. If sidewalk repairs become necessary, the Planning and Zoning Commission may order this work. The City, at their discretion, may assess the cost of repairs or replacement to the residents of the Reiles Acres 9th addition.
- C. Requirements.** Unless otherwise designated by the Planning and Zoning Commission, all sidewalks and ADA ramps must be constructed as defined in the "Reiles Acres Sidewalk Detail" and "Reiles Acres ADA Ramp Detail" attached to the end of this section.
- D. Name Stamp Required of Licensee.** Concrete sidewalk construction licensees are required to have a stamp which must be used to imprint the contractor's name and year of construction into the constructed sidewalk. The stamp shall consist of letters one and one-quarter (1¼) inches high and of sufficient depth to imprint to the depth of one-eighth (1/8) inch into the fresh concrete.
- F. Tearing up or Removing Sidewalk.** No person will injure or tear up any public sidewalk, or pedestrian/bikeway or drive any vehicle upon or across any public sidewalk or pedestrian/bikeway, without first obtaining the permission of the Reiles Acres Building Inspector or his designee. Anyone tearing up a public sidewalk or excavating under, near or through a public sidewalk without the permission of the Reiles Acres Building Inspector or his designee, will be required to compensate the

City for the work required to immediately repair the sidewalk to its original condition or to the satisfaction of the City Engineer or their designee.

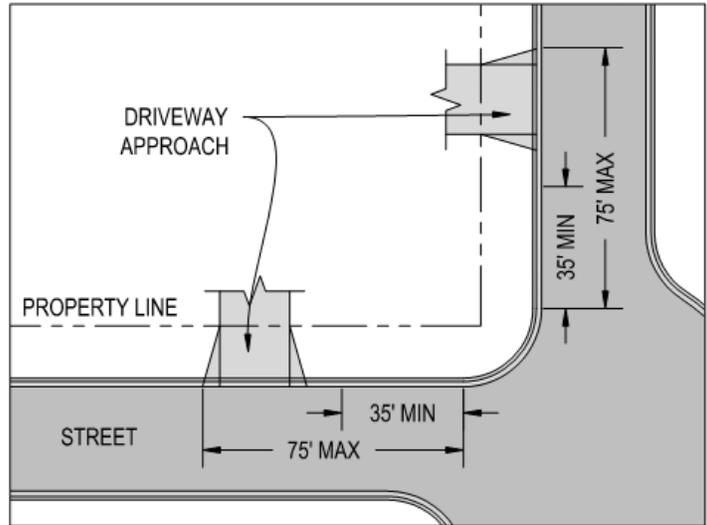
G. Installation of Driveways after Boulevard Sidewalk Has Been Installed: If a homeowner is to install their driveway after such time that boulevard sidewalk has been installed by the City, their contractor must install “sidewalk closed” signs on type 3 barricades on either side of the proposed driveway and then neatly saw cut to the nearest joint and remove the existing sidewalk, then install their driveway and the pedestrian crossing plate per the “Reiles Acres Driveway Detail” attached to the end of this section. The sidewalk may remain closed for a maximum of 15 days. After this point the City may reinstall the sidewalk to its original condition and assess the cost to the home owner. No concrete may be poured until a City representative has inspected the grading, forms, rebar and etc. A minimum of 48 hours (2 business days) notice must be given to City for inspection.

H. Installation of Driveways before Boulevard Sidewalk has been Installed: Driveway construction shall follow the “Reiles Acres Driveway Detail” attached to the end of this section. No concrete may be poured until a City representative has inspected the grading, forms, rebar and etc. A minimum of 48 hours (2 business days) notice must be given to City for inspection.

I. The location, design and construction of the driveway:

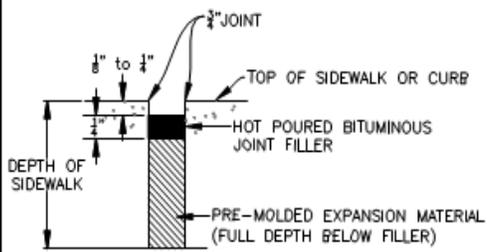
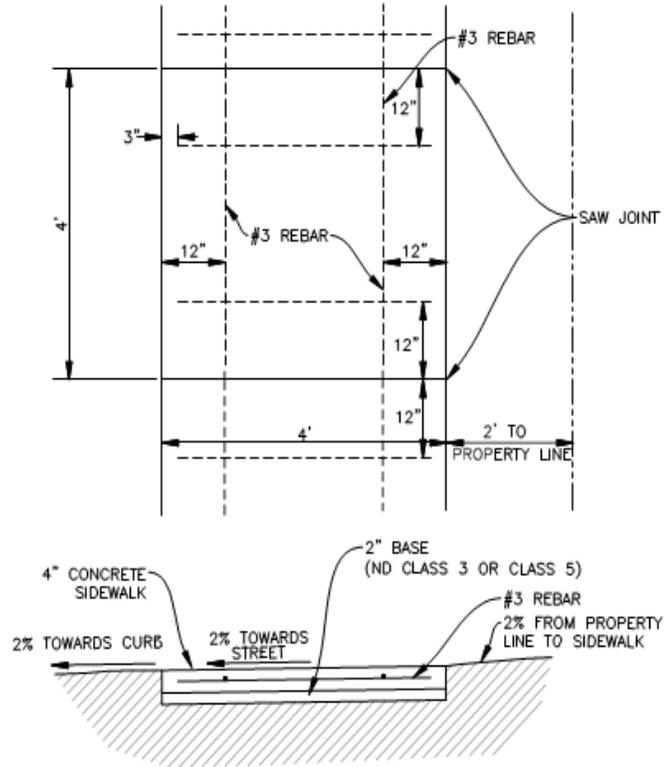
Shall be in accordance with the following standards. These standards are in no case to be modified unless specifically authorized by Resolution of the City Council.

1. The number of driveways permitted serving a single family residence shall be one maximum.
2. If a property has frontage on more than one street, then a maximum of two driveways shall be allowed with the design standards below. See Figure A.
 - a. A second driveway shall not be permitted if lot frontage is adjacent to Landview Road, 45th Street North, 32nd Avenue North, 35th Avenue North, 38th Avenue North, and 39th Avenue North.
 - b. The combined driveway widths shall not be greater than 40 feet.
 - c. All second driveways shall be approved by Resolution of the City Council prior to construction.
 - d. To reduce potential adverse effects which may result, if it is determined it would cause a nuisance to the surrounding area, or a traffic hazard, or unduly congest traffic then a secondary driveway may be denied.



- J. Snow and Ice on Sidewalk Removed by Owner and Occupant of Property:** No snow or ice may be allowed to stand or remain upon any public sidewalk within the City of Reiles Acres. If any person or corporation either neglects or refuses to remove the snow or ice on a public sidewalk abutting the person's or corporation's property, after forty-eight (48) hours' notice by the City Auditor, or his designee, the person or corporation will be subject to the penalties set out in Section 3-0403 with each day of noncompliance being a new violation. In addition, the city auditor, or his designee, may cause the snow or ice to be removed. The expense incurred in the removal will be charged and assessed against the abutting property by special assessment in a manner prescribed by law.

- K. Sump Pump Hoses.** Sump pump hoses may not be placed on or over a public sidewalk. Property owners may request permission from the Reiles Acres City Counsel to bury their sump pump hose under the public sidewalk.



TYPICAL ISOLATION JOINT SEAL
(LONGITUDINAL AND TRANSVERSE)

- NOTES:
1. ALL CONCRETE SHALL MEET CURRENT NDDOT SPECIFICATIONS, UNLESS NOTED OTHERWISE.
 2. CONCRETE SHALL HAVE A 28 DAY COMPRESSIVE STRENGTH OF 4,000 PSI MINIMUM.
 3. REBAR SHALL BE TIED WITH WIRE AND BE SUPPORTED WITH PROPER REBAR "CHAIRS".
 4. JOINTS SHALL BE SAW CUT AT 4' SPACING AT A DEPTH OF 1". SAWING SHALL BE DONE DURING THE SAME WORKING DAY THAT THE CONCRETE IS POURED.
 5. CURE COMPOUND SHALL BE IMMEDIATELY APPLIED AFTER POUR. CONCRETE SHALL BE FULLY COVERED BY CURE COMPOUND.
 6. ISOLATION JOINT SHALL BE INSTALLED AT ALL CONNECTIONS TO EXISTING CONCRETE AND @ 150' MAXIMUM SPACING.
 7. ISOLATION JOINTS SHALL NOT BE TIED WITH REBAR, BUT SHALL UTILIZE GREASED 18" LONG 1/2" SMOOTH DOWELS

 <p>LOWRY ENGINEERING 3335 FORTY-NINTH AVENUE, SUITE 102 FARGO, ND 58103-5008</p>	<p>SIDEWALK DETAIL REILE'S ACRES, NORTH DAKOTA</p>		<p>LEADER: []</p> <p>PROJECT NO: 06172012</p> <p>DRAWN BY: RJW</p> <p>APPROVED BY: JLT</p> <p>SHEET: 10/1</p>
			<p>DETAIL</p>

3.0109 Materials and Manner of Construction

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

3.0110 City Contractor

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

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

3.011 STREET GRADES AND ESTABLISHING STANDARDS FOR THE CONSTRUCTION OF STREETS, ROADS AND THE PROVISIONS FOR DRAINAGE IN THE CITY OF REILE'S ACRES, CASS COUNTY, NORTH DAKOTA.

Section 1. Establishment of elevations for grades. Streets and their elevations, as established in the past in the City of Reile's Acres, shall be considered as permanent; the city engineer shall keep a record

of all grades of streets, together with a profile of such street grades; the city auditor shall also have a copy of such street grades; the city auditor shall also have a copy of such grade and profile.

Section 2. Construction of streets—standards established. Streets in all areas of the City shall be built and constructed in accordance with the following minimum standards:

Section 3. Sub-grade construction. Sub-grade construction shall be defined as such preparation of all areas upon which new sub-grade is to be placed and the placing and compacting of suitable sub-grade as established by plans and specification prepared by the city engineer. All new sub-grade areas shall be stripped of existing topsoil and vegetation and scarified and compacted to 90% of proctor prior to the addition of fill material. Fill materials shall be placed in lifts not to exceed 12 inches in thickness and compacted to 90% of proctor. All lifts shall be checked and approved by the engineer prior to the laying of additional fill. All stripping shall be spoiled on adjoining lots in a manner agreeable to the city engineer. All sub-grade materials used shall be free of sod, vegetation or other objectionable foreign materials for sub-grade construction shall be available on site.

Section 4. Gravel base course. Gravel base course shall mean work consisting of laying a 5 inch gravel surface upon the prepared street sub-grade all in accordance to the line and grade as determined by plans and specifications prepared by the city engineer. All construction shall comply with Section 3.4 “Stabilized Base Course” of the North Dakota State Highway Department “Standards Specifications for Road and Bridge Construction” as adopted January, 1965. All gravel shall be compacted to 90% of proctor. All materials used shall conform to Class 5, Section 808-3 of the aforesaid specifications. Samples of materials shall be provided to the engineer in ample time prior to start of construction for testing and approval.

Section 5. Width, Shaping and Drainage. The width, shaping and drainage to be provided for all streets hereafter constructed shall be according to plans and specification prepared by the city engineer.

Section 6. Outside Perimeter Roads. All outside perimeter roads shall be designed to be utilized as dikes or water barriers in the event of flooding. Accordingly, traps on culverts must be provided designed to prevent water flowage into the City of Reile’s Acres. Such traps shall conform to specification prepared by the city engineer and are subject to approval of said city engineer.

Section 7. Curb and Gutter Required. All streets or roads hereafter constructed must be mountable curb and gutter and be accepted by the City and any developer having constructed such streets or roads shall only be released after inspection by the city engineer and approval granted by the governing body. The city engineer may make such test on said streets or roads as may be required to insure compliance with this ordinance. All roads shall be built to such elevations and standards as specified by the city engineer.

Section 8. Penalty. Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 2-107. Each day such violation continues shall be considered a separate offense.

(Source: Ordinance No. 4: 1978)

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

3.0201 Obstructions - Penalty

It shall be unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specified by ordinance or by the city engineer or street commissioner.

Any person violating the provisions of this section shall be guilty of an infraction and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).

3.0202 Destruction of City Property - Prohibited - Penalty

It shall be unlawful for any firm, person or corporation to willfully and without just cause or excuse, to injure, deface or destroy any property owned by the City or held by the City for public use. Any person violating the provisions of this section shall be guilty of an offense and be fined not less than twenty-five dollars (\$25.00), nor more than one thousand dollars (\$1,000.00) or be imprisoned in the City jail for not to exceed thirty (30) days or by both such fine and imprisonment.

3.0203 Encroachments

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

3.0204 Openings

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

3.0205 Wires

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without having first secured permissions from the governing body.

Any person or company which maintains poles and wires in the streets, alleys or other public places, shall, in the absence of provisions in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the Commissioner of Streets and Public Improvements, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

3.0206 Littering - Prohibited

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

3.0207 Burning

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

3.0208 Distributing Hand Bills, Etc.

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

3.0209 Heavy Vehicles

No person, firm or corporation shall move, or cause to be moved over the paved streets, sidewalks, crosswalks, culverts, bridges and viaducts within the City any engine, tractor, wagon, truck or other vehicle, object or thing which will tend to injure the paving, sidewalks, crosswalks, culverts, bridges or viaducts over which the same are transported, or which exceeds in weight 65,000 pounds subject to the axle limits [single axle not to exceed 12,000 pounds; tandem axle not to exceed 12,000 pounds per axle; 3 axles or more – 10,000 pounds per axle, on divisible loads the gross weight of the axle grouping may not exceed 30,000 pounds], or any vehicle to the wheels of which are attached spurs, bars, angle irons or cleats which will tend to mar or deface the paving, sidewalks, crosswalks, culverts, bridges or viaducts, except under the

direction and permission of the governing body and, in addition thereto, shall pay or cause to be paid to said City, upon demand, any and all damages done to the paving, sidewalks, crosswalks, culverts, bridges or viaducts, provided that when the specified load limits herein contained will cause damage to the City's paved streets, the governing body by resolution adopted, and made public, may lower said load limits for such period of time it may deem necessary. The provisions of this section shall not apply to state and federal highways through the City.

3.0210 Removal of Snow and Ice from Sidewalk; improper dumping on city streets

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

It shall be unlawful for any person, association, partnership, corporation, or other entity to deposit, place or dump, or permit or authorize the depositing, placing or dumping of any snow removed from driveways, sidewalks, parking lots, commercial lots, residential lots, or any other private property upon any city street.

3.0211 Removal of Snow and Ice by City

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

3.0212 Assessments by Street Commissioner When Work is Done by City

Whenever the street commissioner shall, pursuant to Section 3.0211 of this article, remove or cause to be removed any snow or ice from any sidewalk or sidewalks along or in front of any building, grounds or premises, he shall assess the cost of the same against said property, and on or before the first day of May in each year, make and file in the office of the city auditor a list of the property chargeable with such expense, the actual cost and expense of such removal and a description of the lot, lots or parcels of land along or in front of which is the sidewalk or sidewalks from which snow or ice has been removed. (Source: North Dakota Century Code Section 40-29-18)

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

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

(Source: North Dakota Century Code Section 40-29-19, 20)

3.0214 Street Cleaning - Snow Removal

Whenever, in the judgment of the governing body or the city engineer or street commissioner of the City, it shall be necessary that streets, alleys or public ways in the City shall be cleared of snow or ice or be cleaned by the use of street sweepers or other methods of cleaning such streets, or for marking for traffic purposes, the ordinances of the City regulating the parking of automobiles, trucks and other motor vehicles shall be suspended and it shall be unlawful for any automobile, truck or other motor vehicle to be parked or left standing between the hours hereinafter mentioned and during the period of time during which the said parking ordinances are suspended. All parking on the streets of the City of Reile's Acres is prohibited except for the temporary loading and unloading, and deliveries not exceeding fifteen (15) minutes.

3.0215 Notice - Snow Removal or Street Cleaning

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

3.0216 Impounding 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.

3.0217 Blocking Streets

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

3.0218 Excavations - Permit

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

3.0219 Guarding Excavations and Openings

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

3.0220 Application for Excavation Permits

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

3.0221 Fees for Excavation Permits

The fee for excavation permits shall be:

1. Excavation in asphalt or Portland Cement concrete pavement or surface:
\$2.00 per square foot.
2. Excavation in brick pavement or surface: \$2.00 per square foot.
3. Excavation in oil treatment street surface: \$1.00 per square foot.
4. Excavation in untreated or unimproved street or surface: \$.50 per square foot.

3.0222 Bond - Excavations

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

3.0223 Deposit - Excavations

No such permit shall be issued unless and until the applicant therefore has deposited with the Auditor a cash deposit or bond in the sum of \$1,000.00 if no pavement is involved, and if the excavation is in a paved area \$5,000.00 to insure the proper restoration of the ground and laying of the pavement if any. From this deposit shall be deducted the expense to the City of relaying the surface of the ground or pavement and of making the refill if this is done by the City or at its expense, and the balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

3.0224 Making Excavations - Notice

It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground, and in excavations, the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

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

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

3.0225 Restoration of Excavations

Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the City shall restore the surface to its original condition if there is no pavement there. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground.

Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant, in compliance with the ordinances of the City and under the supervision of the street commissioner or city engineer.

3.0226 Supervision of Excavation Work

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

3.0227 City Parks - Hours

All City parks shall have established hours of public access. The hours shall be from 8:00 a.m. to 10:00 p.m. each day. Notice of the same may be published in the official newspaper or posted at the public parks. Any variance from the above hours of use shall be under special permission granted by the Park Commissioner.

3.0228 City Buildings, Equipment and Vehicles - Smoking

Smoking is not permitted in City buildings, equipment and vehicles, except in designated smoking areas. The public official having general supervisory authority over any City buildings, equipment or vehicles may designate a smoking area by posting a sign in the smoking area which states "Designated Smoking Area." Any designated smoking area in a place of public assembly may not occupy more than fifty percent of the total area available to the public and must be situated to minimize smoke drift.

(Source: North Dakota Century Code Section 23-12-10)

ARTICLE 3. Unclaimed and Abandoned Property

3.0301 Unclaimed and Abandoned Property - Defined

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

3.0302 Seizure of Unclaimed or Abandoned Property

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

3.0303 Holding of Personal Property - Notice of Sale

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

3.0304 Report of Abandoned Property Sale

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

3.0305 Bill of Sale - Abandoned Property

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

3.0306 Proceeds of Sale - Abandoned Property

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

3.0307 Redemption of Personal Property

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

3.0308 Annual Report - Unclaimed and Abandoned Property

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

ARTICLE 4 - RESERVED

ARTICLE 5 – Trees – Shade Tree Committee

3.0501 Definitions – Street Trees and Park Trees

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

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

3.0502 Establishment of a Shade Tree Committee – Terms - Compensation

The City Council of the City of Reile’s Acres and other individuals appointed by the Mayor with the approval of the City Council, shall act as a Shade Tree Committee.

3.0503 Operation and Duties of the Shade Tree Committee

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

3.0504 Tree Care – Tree Topping

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Shade Tree Committee may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. It shall be unlawful as a normal practice to top any street tree, park tree or other tree on public property. Topping is

defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged or certain trees under utility wires or obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Shade Tree Committee.

3.0505 Review by City Governing Body

The City governing body shall have the right to review the conduct, acts and decisions of the Shade Tree Committee. Any person may appeal from any ruling or order of the Shade Tree Committee to the City governing body, which may hear the matter and make a final decision.

ARTICLE 6 – Automobiles, Personal Property – When a nuisance

3.0601 Nuisance declared

Unsheltered storage of old, used, stripped, junked and other automobiles not in good, safe operating condition or without current license or registration and of any other vehicles, machinery implements and /or equipment and personal property of any kind which is no longer safe for the purpose for which it was manufactured, for a period of thirty (30) days or more (except in a licensed junk yard) within the City, and any motor vehicle, animal and article of personal property which constitutes an obstruction to, hazard or detriment to public traffic, snow removal operations, public safety and public health, or which may be abandoned or unclaimed within the City, is hereby declared to be a nuisance and shall be abated in the manner prescribed in this article. The practice of parking motor vehicle in the front yards of properties within the City, other than on approved parking surfaces, is hereby declared to be a nuisance and shall be abated in the manner provided by this article. Approved parking surfaces shall consist of a durable surface to include concrete or asphalt. Grass or dirt or gravel shall not constitute a durable surface.

(Source: Ordinance No. 61: 2002; Ordinance No. 72: 2003)

3.0602 Abatement required by owners

The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of this City upon which such storage is made, and also the owner,/owners and/or lessees or the property involved in such storage (all of whom are hereinafter referred to collectively as "owners"), shall jointly and severally abate the nuisance by the prompt removal of the personal property into completely enclosed buildings authorized to be used for storage purposes, if within the corporate limits of the City, or otherwise to remove it to a location outside of corporate limits.

(Source: Ordinance No. 61: 2002; Ordinance No. 72; 2003)

3.0603 Abatement required – Penalty for failure to abate

If the owners allow a nuisance to exist or fail to abate a nuisance they, and each of them upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) for each infraction and a separate infraction shall be deemed committed on each day during or on which the nuisance is permitted to exist.

(Source: Ordinance No. 61: 2002; Ordinance No. 72:2003)

3.0604 Removal and impoundment by city upon failure to abate by owner

The City may remove or cause to be removed to the City Hall, or any other place designated by the City for storage purposes, (within forty-eight (48) hours of notice to the owner), any personal property described in 61.0101, and may impound and retain the same until the expenses 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.

(Source: Ordinance No. 61: 2002; Ordinance No. 72: 2003)

3.0605 Removal and impoundment – when sold

If not reclaimed and redeemed by the true owner of the person lawfully entitled to the possession thereof within a period of thirty (30) days after impounding, any article of personal property described in 61.0101 may be sold and disposed of by the city in the manner hereinafter provided. Notice that such property will be sold shall be published once, at least six (6) days prior to the sale, in the official newspaper. Such notice shall specify a description of the property to be sold and the time and place of sale. Any sale may be postponed or discontinued by public announcement at the time of the sale where there are not bidders or when the amount offered is grossly inadequate, or for other reasonable cause. The City may become a purchaser of any or all property at the sale. The City shall give the purchaser at the sale a certificate of purchase of such property.

(Source: Ordinance No. 61: 2002; Ordinance No. 72: 2003)

3.0606. Proceeds from removal and impoundment by City

Within thirty (30) days after a sale, the person making the sale shall make out, in writing, and file with the City a full report of the sale, specifying the property sold, the amount received therefore, the amount of costs and expenses and the disposition of the proceeds of the sale. The proceeds arising from the sale shall be delivered to the city auditor and credited to the general fund.

(Source: Ordinance No. 61: 2002; Ordinance No. 72: 2003)

ARTICLE 7. Security Lights

3.0701 Definition of security light

A security light shall consist of a light at a sufficient height to provide illumination to the area around it. If the light is on a pole, the pole length shall be at least twenty-one (21) feet in length with an eighteen (18) foot minimum height above the existing grade. The pole material shall be fiberglass or as approved by the city upon request. The light will be a one hundred (100) watt high pressure sodium with a decorative head (as supplied by the electric utility supplier). Lights attached to poles or building with arms are acceptable only if approved by the city council. Light location on property shall be in the front or side yards where possible.

(Source: Ordinance No. 60; 2002)

3.0702 Installation of security light

The security lights shall be installed as soon as possible once construction on the property has started (based upon the development permit date). Six (6) months will be allowed from the date of occupancy, or in the case of annexation from the date of annexation, to have the security lights installed or the city will proceed, with ten (10) days' notice, to have the light installed at the property owner's expense.

Existing properties have six (6) months from the effective date of the ordinance to have a light that complies with the provisions given herein.

Note New homes constructed in the 9th addition are exempt from this ordinance as there will be street lighting provided in the development.

(Source: Ordinance No. 60; 2002)

3.0703 Requirements

At least one security light (yard light) shall be installed on each property legally recorded for single family residences, light commercial properties, or city owned lots for property within the city limits of the City of Reile's Acres. The light shall be installed so that it is in alignment with the lights on neighboring properties.

The security light (yard light) shall remain illuminated from sunset to sunrise. Failure to install at least one security light (yard light) or failure to maintain illumination from sunset to sunrise shall be punishable by a fine of \$20.00 per day.

(Source: Ordinance No. 60; 2002)

CHAPTER FOUR

FIRE PROTECTION AND PREVENTION

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- 4.0202 Fire Limits - Erection of Buildings Within
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ARTICLE 6 - RESERVED

ARTICLE 7 - Penalty for Violation of this Chapter

4.0701 Penalty - Violations of Fire Protection and Prevention Chapter

ARTICLE 1 – RESERVED

ARTICLE 2 - Fire Limits

4.0201 Fire Limits

All those parts of the City which have been zoned for any residential, commercial, or industrial use or that may hereafter be so zoned.

4.0202 Fire Limits - Erection of Buildings Within

No buildings or parts of any buildings shall be erected within the fire limits unless the construction meets the provisions of the North Dakota State Building Code, which is the official building code of the City. Outbuildings may be erected of any other material, not necessarily of fireproof qualities, by obtaining a permit from the City governing board upon application therefore which may be granted or refused in the City governing board's discretion.

4.0203 Alterations and Additions in Fire Limits

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

4.0204 Inspection of Premises, Materials, Discovery, Order

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

4.0205 Repairs to Damaged Buildings

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

ARTICLE 3 - Fires in Public Places

4.0301 Smoking - Setting Fires

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

4.0302 Notice - Smoking Ordinance

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

4.0303 Organized Bonfires Prohibited/Restricted - Exception

Except for small, adult-supervised bonfires with appropriate safeguards in place on private property, no person shall kindle, maintain or assist in maintaining any bonfire or other exposed fire within the City except under the written permit of the chief of the fire department under proper safeguards as he may direct. Permits may be granted only on condition that such permit carries an obligation on the part of the grantee to keep a sufficient safe control of said fire and to be responsible for all damages there from, and that all resultant embers shall be extinguished and the hot ashes removed or wet down at the close of said fire. When permits are not necessary, there still exists an obligation on the part of the citizen to keep a sufficient safe control of said fire and to be responsible for all damages there from, and that all resultant embers shall be extinguished and the hot ashes removed or wet down at the close of said fire.

4.0304 Hot Ashes and Other Dangerous Materials - Depositing of

Ashes, smoldering coals or embers, greasy or oily substances and other matter liable to spontaneous ignition shall not be deposited or allowed to remain within ten (10) feet of any combustible materials or construction made up of combustible materials, except in metal or other non-combustible receptacles. Such receptacles shall be placed on non-combustible stands, unless resting on a non-

combustible floor or on the ground outside the building, and shall be kept at least two (2) feet away from any combustible wall or partition.

4.0305 Open Burning Prohibited

No person shall kindle, maintain or burn any leaves, grass, tree and shrub branches, garbage or other refuse either openly or in containers.

ARTICLE 4 - Fire Prevention

4.0401 Adoption of Fire Codes

There is hereby adopted by the City of Reile's Acres for the purposes of prescribing regulations governing conditions hazardous to life and property from fire or explosions, that certain code known as the City of Reile's Acres Fire Code and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code a copy is on file in the office of the city auditor and the same is hereby adopted and incorporated in full as if set out length herein.

The fee for any permit or license required by the fire prevention code, where no other license or permit fee is fixed elsewhere in the city ordinances, shall be the sum of \$100.00 to be paid to the chief of the fire department and by him to be paid into the City Treasury without delay.

4.0402 Amendments, Additions and Deletions Made in Fire Code

Amendments

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

Additions

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

Deletions

Sec. _____ etc. is deleted.

4.0403 Enforcement of Fire Prevention Code

1. The fire prevention code shall be enforced by the Cass County Sheriffs' Department.

4.0404 Storage of Flammable Liquids

No new bulk plants or tanks for storage of flammable liquids shall be permitted within the limits of the City except in the following established area: None allowed within city limits.

4.0405 Storage of Liquefied Petroleum

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

4.0406 Modifications of Fire Code

The city council shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done.

ARTICLE 5 - Firearms, Fireworks and Explosives

4.0501 Firearms not to be furnished to Minors

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

4.0502 Exploding Firearms

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

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

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

4.0504 Fireworks Defined

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

(Source: North Dakota Century Code Section 23-15-01)

4.0505 Fireworks - Discharging of, Sale of

Except as otherwise provided in this ordinance, it shall be unlawful for any person to offer for sale, expose for sale, sell at retail or wholesale, any fireworks within the limits of the city of Reile's Acres without first obtaining a City of Reile's Acre Sale of Fireworks Permit issued by the City Auditor (a) on or before the second Monday in May, and (b) after payment of a permit fee of \$5,000.00 which will only allow (a) retail sale of fireworks during the period of June twenty-seventh through July fifth of said

calendar year, and (b) the sale of fireworks at wholesale during the period of May fifteenth through July fifteenth of said calendar year in conformity with N.D.C.C. Chap. 23-15. Said permit holder shall still be required to fully comply with the provisions of N.D.C.C. Chap. 23-15 and the conditions set forth in the City of Reile's Acres Application for Sale of Fireworks Permit

Any other sale, use, firing or discharging of any rocket, firecracker, torpedoes, roman candles or of any such "Fourth of July" explosives whatsoever, or fireworks within the City limits is expressly prohibited except (a) adult-supervised discharge of fireworks is permissible between 12:01 p.m. and 11:00 p.m. on July 4 of each year, or (b) as provided by state statute.

4.0506 Exceptions to Fireworks Restriction

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

ARTICLE 6 – RESERVED

ARTICLE 7 - Penalty for Violation of this Chapter

4.0701 Penalty - Violations of Fire Protection and Prevention Chapter

Any person who shall violate any provisions of this chapter or fail to comply therewith or who shall violate or fail to comply with any order made thereunder or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken or who shall fail to comply with such an order as affirmed or modified by the governing body or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not to exceed thirty (30) days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

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

CHAPTER SIX

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CHAPTER SIX

ZONING - LAND USE PLANNING

ARTICLE 1 - Planning and Zoning Commission

6.0101 Planning Commission Created

There is hereby created a body to be known as the Planning Commission of the City Reile's Acres, which shall have all of the powers and duties of planning and zoning commissions as authorized by North Dakota state law. The Planning Commission shall consist of five (5) members who shall be appointed by resolution of the governing body. The governing body shall appoint four (4) members of said Planning Commission, who shall be residents of the City of Reile's Acres, and such appointments shall be made as follows, to-wit: The first member appointed shall hold office for the term of one (1) year; the second member appointed shall hold office for the term of two (2) years; the third member appointed shall hold office for the term of three (3) years; and the fourth member appointed shall hold office for the term of four (4) years. Thereafter, the members shall hold office for terms of five (5) years. The executive officer, the city engineer, and the city attorney, shall be ex officio members of the Commission. In addition to the aforesaid members, the Planning Commission shall have one additional member who resides in a rural area within the one-half mile jurisdictional area of the City as specified in Sections 40-47-06 and 40-48-03 of the North Dakota Century Code; said rural member to be appointed by the Cass County Board of Commissioners for a term as specified in said Sections 40-47-06 and 40-48-03 N.D.C.C. The terms of the ex officio members of the Commission shall correspond to their respective official tenures. The appointment of the City's member to the Planning Commission shall be made by the executive officer of the City with the approval of its governing body. The member of the Commission appointed by the Board of County Commissioners, shall hold office for five (5) years.

- A. Powers and Duties. The Planning and Zoning Commission shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:
1. Interpretation. Upon appeal from a decision by an administrative official, to decide ___ any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with ___ respect thereto.
 2. Variances. To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other ___ exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. In granting any variance, the Board of Adjustment shall prescribe any conditions that it deems to be necessary or desirable. However, no variance in the strict application of any provision of this chapter shall be granted by the Board of Adjustment unless it finds:
 - a. That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.
 - b. That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish this purpose.
 - c. That the granting of this variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise

detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the board, in determining its finding, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

- B. Procedure. The Planning and Zoning Commission shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the city auditor.
- C. Notice and Hearing. No action of the Commission shall be taken on any case until after due notice has been given to the parties and public hearing has been held.

6.0102 Amendments

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

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

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

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

- a. Of the area of the lots included in such proposed change; or
- b. Of those immediately adjacent in the rear thereof extending 150 feet therefrom; or
- c. Of those directly opposite thereto extending 150 feet from the street frontage of such _____ opposite lots.

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

6.0103 Enforcement

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

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, _ conversion, maintenance or use;
2. To restrain, correct or abate such violation;
3. To prevent the occupancy of the building, structure or land; or
4. To prevent any illegal act, conduct, business or use in or about such premises.

A violation of any provision of this article or a violation of or refusal or failure to comply with any regulation, order, requirement, decision of determination made under authority conferred by this article shall be punishable as provided in the chapter entitled "Ordinances."

(Source: Ordinance No. 3; 1978)

(Source: North Dakota Century Code Section 40-48-03)

6.0104 Terms, Compensation, Meetings

The terms of the members, their compensation, and meetings shall be as provided by Chapter 40-48 of the North Dakota Century Code.

6.0105 Ex-Officio Zoning Commission

The planning commission shall also serve as the zoning commission of the City 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.

(Source: North Dakota Century Code Section 40-47-06)

ARTICLE 2 - Definitions

6.0201 General usage

- A. Words within these regulations shall be used, interpreted, and defined as presented in this chapter.
- B. The word "City" shall mean the City of Reile's Acres, North Dakota.
- C. The word "shall" is mandatory and the words "may" or "should" are permissive.
- D. The words "sub-divider", "developer", "applicant", "person", and "owner" include an individual, a corporation, an unincorporated association, a partnership, or other legal entities.
- E. Anything not specifically included in a definition is automatically excluded.
- F. In the event of conflicting provisions in the meanings of any words in these regulations, the most restrictive or that which imposes a higher standard shall govern.

(Source: Ordinance No. 48; 1996)

6.0202 Definitions

- A. "Accessory use or structure" means a use structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, to include privately-owned swimming pools and satellite dishes.
- B. "Buildable area" means the portion of a lot remaining after required yards have been provided.
- C. "Commercial agriculture" means the use of land for the growing and /or production of field crops, livestock, and livestock products for the production of income including but not limited to the following:
 - 1. Field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, wheat, sunflowers, and sugar beets.
 - 2. livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds, and other animals including dogs, ponies, and rabbits.
 - 3. livestock products, including: milk, butter, cheese, eggs, meat, fur, and honey.
- D. "Conditional use" means a use which is not appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses are allowed in a zoning district as a conditional use if specific provision for such uses is made in the zoning district regulations.
- E. "Dwelling unit" means one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.
- F. "Essential services" means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground or overhead telephone, gas, electrical, steam, communication, cable TV, or water transmission, distributions, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connections therewith for the furnishing of adequate service by such public utilities or municipal departments or commissions to the residents of Reile's Acres.
- G. "Extraterritorial zoning jurisdiction" means unincorporated lands outside the city limits of Reile's Acres over which the City has the zoning authority.
- H. "Family" means one or more persons related by blood or marriage or a group of not more than five persons who need not be related by blood or marriage living together in a dwelling unit.
- I. "Fence" means an artificially constructed structure of any material or combination of material erected to enclose or screen areas of land.
- J. "Lot" means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:
 - 1. a single lot of record.
 - 2. a portion of a lot of record.
 - 3. a combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

4. a parcel described by metes and bounds, provided that in no case division or combination shall any residual lot or parcel be created which does not meet the requirements of the chapter.
- K. "Mobile home" means a detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered as a mobile home.
 - L. "Setback" means the required distance between every structure and lot line, as prescribed in the district regulations of this chapter. No part of the building structure, including the eave, shall be within the setback.
 - M. "Single-family dwelling" means a detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.
 - N. "Structure" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground including but not limited to eaves, overhangs or trellises.
 - O. "Travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.
 - P. "Variance" means a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in the chapter, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.
 - Q. "Yard" means an open space, other than a court, on the same lot with a building, unoccupied and unobstructed by any portion of a structure from 30 inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and main building shall be used.

(Source: Ordinance No. 48; 1996; 2009)

- R. For the purpose of this chapter the following words and phrases shall have the meanings herein given unless defined differently above:
 1. "Accessory Use or Building" is a subordinate use or building customarily incident to and located on the same lot with the main use or building.
 2. "Alteration" as applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
 3. "Building" is a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property, including tents, lunch wagons, dining cars, camp cars, _ trailers and other roofed structure on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly,

educational or recreational purposes. For the purposes of this definition “roof” shall include an awning or other similar covering, whether or not permanent in nature.

4. “Building Line” is the line between which and the street line or lot line no building or other structure or portion thereof, except as provided in this Code, may be erected above the grade level. The building line is considered a vertical surface intersection the ground on such line.
5. “Dwelling” is a building designed or used as the living quarters for one or more families.
6. “Dwelling House” is a detached house designed for an occupied exclusively as the residence of not more than two families each living as an independent housekeeping unit.
7. “Dwelling Unit” is one or more rooms providing complete living facilities for one family, including equipment for cooking, or provisions for the same, and including room or rooms for living, sleeping and eating.
8. “Dwelling, Multi-Family” is a dwelling or group of dwellings on one plot containing separate living units for three or more families, but which have joint services or facilities for both.
9. “Family” is a single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond as distinguished from a group occupying a board house, lodging house, club, fraternity or hotel.
10. “Garage, Private” is a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
11. “Lot” is a parcel of land occupied or capable of being occupied by one building, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter.
12. “Non-conforming Use” is a building, structure or use of land existing at the time of the enactment of this chapter and which does not conform to the regulations of the district in which it is located.
13. “Setback Building Line” is a building line back of the street line.
14. “Structure” is anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.
15. “Use” is the purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.
16. “Yard” is an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.
17. “Yard, Front” is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.

18. "Yard, Rear" is an open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.
19. "Yard, Side" is an open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a lot line.

ARTICLE 3 - Establishment of Districts

6.0301 Use and Area Districts Established - limitations

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

Section 1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the zoning regulations herein specified for the district in which it is located. No building or other structure shall hereafter be erected or altered:

- A. To exceed the height or bulk;
- B. To accommodate or house a greater number of facilities;
- C. To occupy a greater percentage of lot area;
- D. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this chapter.

(Source: Ordinance No. 48; 1996)

Section 2. Open space, or off-street parking or loading space

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

(Source: Ordinance No. 48; 1996)

Section 3. Yard and lot reduction prohibited

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this ordinance.

(Source: Ordinance No 48: 1996)

6.0302 Maps and Boundaries

The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of the City of Reile's Acres" which is on file in the office of the city auditor. This map, with all explanatory matter thereon, is hereby made a part of this chapter. 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 of the City of Reile's Acres, North Dakota," together with the date of adoption.

If, in accordance with the provisions of this chapter and Chapter 40-47 of the 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 after the amendment has been approved by the City Council certifying such changes. No amendment to this chapter which involves matter portrayed on the Official Zoning Map shall become effective until such change has been made on said map and the amending ordinance duly published. 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 chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter.

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, building, and structures in the City.

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or the number of changes and additions, the City Council may by resolution adopt a new 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 of the City of Reile's Acres, North Dakota," together with the date of adoption.

Unless the prior Official Zoning Map has been lost, or has been 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.

The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this chapter.

(Source: Ordinance No. 48; 1996)

6.0303 Annexed Property

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

6.0304 Rules of district boundary interpretation

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

- D. Boundaries indicated as approximately following City limits shall be construed as following such City limits.
- E. Boundaries indicated as following shorelines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- F. Boundaries indicated as parallel to or extensions of features indicated in subsections A through E above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- G. 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 A through F above, the Zoning Commission shall interpret the district boundaries.
- H. Whenever any street, alley, or other public way is vacated in the manner authorized by law, the zoned district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all included in the vacation shall then and henceforth be subject to all regulations of the extended district.

(Source: Ordinance No. 48; 1996)

ARTICLE 4 - Application of Regulations

6.0401 Application of Regulations

Except as provided in this chapter:

1. **Conformity of Buildings and Land.** No building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.
2. **Conformity of Buildings.** No building, structure or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.
3. **Conformity of Open Spaces.** No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this chapter.

ARTICLE 5 - Non-Conforming Uses

6.0501 Non-Conforming Uses

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

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

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

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

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

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

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

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

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

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

ARTICLE 6 - Use Districts

6.0601 Use Districts

The City is hereby divided into the following Use Districts to be known as:

- R-1 Residential Districts, Single-Family
- R-1 Rural - large lot" Residential Districts - Single Family
- R-1 Rural - small lot" Residential Districts - Single Family
- R-2 Residential Districts, Two-Family
- R-3 Residential Districts, Multi-Family
- C Commercial Districts
- I Industrial Districts
- A Agricultural Districts

House Numbering Required in All Residential and Commercial Use Districts

All lots, buildings and structures in the city shall be numbered in accordance with the following plan: Buildings on streets running east and west will be numbered based on the street on the east and proceeding with larger numbers moving toward the west with buildings on the north side of the street having even number and the buildings on the south side of the street having odd numbers. Buildings on streets running north and south will be numbered based on the street on the south and proceeding with larger numbers moving toward the north with buildings on the west side of the street having even numbers and the buildings

on the east side of the street having odd numbers. Loops beginning and ending on a street running north and south will be numbered based on the street on the east starting with the loop entrance on the south side proceeding with larger numbers toward the entrance on the north side with the even numbered buildings on the left side of the loop and the odd numbered buildings on the right side of the loop. Loops beginning and ending on a street running east and west will be numbered based on the street on the south starting with the loop entrance on the east side proceeding with larger numbers toward the entrance on the west side with the even numbered buildings on the left side of the loop and the odd numbered buildings on the right side of the loop. Appendix A shows specific numbers for buildings within existing platted areas. House numbers shall be established by the City Planning Commission for newly platted areas at the time the area is formally platted.

(Source: Ordinance No. 25: 1988)

Numbers of Houses

It shall be the duty of the owner and occupants of every house in the city to have placed thereon, in a place prominently visible facing the street on which the house number is designated, figures at least five inches high, showing the number of the house.

(Source: Ordinance No. 25: 1988)

6.0602 R-1 - Residential Districts - Single Family

Section 1. "R-1" DISTRICT OR SINGLE-FAMILY DWELLING DISTRICT

Statement of intent. The provisions of the "R-1" District area intended to apply to neighborhoods with low density, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted.

(Source: Ordinance No. 48; 1996)

Section 2. Permitted Uses.

- A. Single-family detached dwellings.
- B. Publicly owned and operated parks, playgrounds, and recreational facilities.
- C. Schools and churches.
- D. Essential services and public buildings.
- E. Accessory building, provided that they shall be located as required.
- F. Home occupations, proved that they shall be operated as required.

(Source: Ordinance No. 48; 1996)

Section 3. Construction Standards for Single-family detached dwellings.

- A. No building shall be erected unless the design, location, materials and workmanship are in harmony with existing structures and locations in the residential portions of the district and does not violate any protective or restrictive covenants.
- B. The setback shall be at least 50 feet.

- C. The foundation shall be permanent and it shall meet the floodplain management requirements of the City.
- D. The floor area shall be on at least 2 x 10 joists or trusses.
- E. Ceilings shall be at least 8 feet high. (on main level and above) **
- F. Roofing materials shall be asphalt, composite, slate and wood, the roof pitch shall be at least 4 by 12, and the roof overhangs shall be at least 18 inches. Metal shingles that mimic the look of asphalt shingles are allowable. Sheet metal roofing is not allowable.
- G. A septic tank meeting Cass County requirements shall be installed between the building and the city sewer collections system and be at least 50 feet away from any wells. A cleanout shall be provided at the point of connection from the output of the septic tank to the line leading to the city sewer system. A cover and appropriate riser above the cover shall be provided on the septic tank to permit periodic tank pumping and cleaning. A back flow valve shall be installed in the sewer line between the septic tank _____ and the building.
- H. A lift shall be provided in a full basement (a full story below grade) if there is any plumbing or septic service in that area.
- I. No basement shall be constructed for residential purposes and no basement structure shall be used for residential purposes unless and until the entire superstructure has been erected thereon and has been approved for occupancy.
- J. Homes shall meet the following minimum livable floor area:
 - 1. Rambler – 1500 square feet
 - 2. Bi-level or Split level – 2400 square feet
 - 3. 2 Story – 2700 square feet
- K. Limited Multiple Family Dwelling units other than Townhouses or Duplexes shall have ___ a minimum livable floor area of not less than 1000 square feet.
- L. The total roof coverage of all buildings on a lot shall not exceed 15% of the total lot ___ area.
- M. There shall be only one entrance to the lot from the street.

(Source: Ordinance No. 48; 1996; Ordinance No. 56; 1999; Ordinance No. 78; 2007)

6.0602A “R-1 Rural - large lot” Residential Districts - Single Family

Section 1. "R-1 Rural - large lot" DISTRICT OR SINGLE-FAMILY DWELLING DISTRICT (EXTRATERRITORIAL).

Statement of intent. The provisions of the "R-1 Rural - large lot" District area are intended to apply to the extraterritorial area of Reiles Acres, with low density and lot size(s) equal to five (5) acres and greater wherein certain educational, religious, recreational and other activities compatible with residential development are permitted

Section 2. Permitted Uses.

- A. Single-family detached dwellings.

- B. Publicly owned and operated parks, playgrounds, and recreational facilities.
- C. Schools and churches.
- D. Essential services and public buildings.
- E. Accessory building, provided that they shall be located as required. Accessory building not to exceed 1,008 square feet per 1 acre of land.
- F. Home occupations, proved that they shall be operated as required.
- G. Animal boarding, with a maximum of one (1) animal unit (non-domestic) per acre. (See Section 4). Non-domestic animal unit is defined as any of various animals that have been tamed and made fit for a human environment. Fenced areas housing animals described in Section 4 must be landscaped so as to prevent animal waste run-off unto lands owned by adjacent property owners.

Section 3. Construction Standards for Single-family detached dwellings.

- A. No building shall be erected unless the design, location, materials and workmanship are in harmony with existing structures and locations in the residential portions of the district and does not violate any protective or restrictive covenants.
- B. The setback shall be at least 40 feet from front of property, 20 feet from sides of property, and 25 feet from back of property. All fences must be within property lines by one (1) foot, or greater. Structures housing domesticated animals set forth in Section 4 must be separated from any residential buildings by a distance of at least 25 feet.
- C. The foundation shall be permanent and it shall meet the floodplain management requirements of the City.
- D. The floor area shall be on at least 2 x 10 joists or trusses.
- E. Ceilings shall be at least 8 feet high, on the main level and above.
- F. Roofing materials shall be asphalt and wood, the roof pitch shall be at least 4 by 12, and the roof overhangs shall be at least 18 inches.
- G. A septic system meeting Cass County requirements shall be at least 50 feet away from any wells. A cleanout shall be provided at the point of connection from the output of the septic tank to the line leading to the city sewer system. A cover and appropriate riser above the cover shall be provided on the septic tank to permit periodic tank pumping and cleaning. A back flow valve shall be installed in the sewer line between the septic tank and the building.
- H. A lift shall be provided in a full basement (a full story below grade) if there is any plumbing or septic service in that area.
- I. No basement shall be constructed for residential purposes and no basement structure shall be used for residential purposes unless and until the entire superstructure has been erected thereon and has been approved for occupancy.
- J. Homes shall meet the following minimum livable floor area:
 - 1. Rambler 1500 square feet

2. Bi-Level or Split level 2400 square feet

3. 2 Story -- 2700 square feet

K. The total roof coverage of all buildings on a lot shall not exceed 15% of the total lot area.

L. There shall be only one entrance to the lot from the street.

Section 4. Animal Unit Table.

Animal Unit: Shall mean the unit of measure used to determine the appropriate density of mature livestock and poultry which shall be kept subject to the restrictions imposed by this Ordinance. For the purpose of this Ordinance, the following equivalents shall apply:

One mature dairy cow, whether milking or dry	1.33 animal unit	8 cows = 10.64 units
One dairy cow, heifer, or bull, other than an animal described above	1.0 animal unit	
One weaned beef animal, whether a calf, heifer, steer, or bull	0.75 animal unit	10 animals = 7.5 units
One cow-calf pair	1.0 animal unit	
One swine weighing fifty-five pounds [24.948 kilograms] or more	0.5 animal unit	
One swine weighing less than fifty-five pounds [24.948 kilograms] or more	0.25 animal unit until weaned	
One horse	2.0 animal unit	
One sheep or lamb / One Goat or kid	0.5 animal unit	
One turkey	0.25 animal unit	
One chicken, other than a laying hen	0.25 animal unit	
One laying hen	0.25 animal unit	
One duck	0.25 animal unit	
Any livestock not listed above equals 1.0 animal unit per each one thousand pounds [453.59 kilograms], whether single or combined animal weight		

(Source: Ordinance No. 1; 2013)

6.0602B "R-1 Rural - small lot" Residential Districts - Single Family

Section 1. "R-1 Rural - small lot" DISTRICT OR SINGLE-FAMILY DWELLING DISTRICT (EXTRATERRITORIAL).

Statement of intent. The provisions of the "R-1 Rural – small lot" District area are intended to apply to the extraterritorial area of Reiles Acres, with low density and lot size(s) equal to .75 acres or greater, but less

than five (5) acres wherein certain educational, religious, recreational and other activities compatible with residential development are permitted

Section 2. Permitted Uses.

- A. Single-family detached dwellings.
- B. Publicly owned and operated parks, playgrounds, and recreational facilities.
- C. Schools and churches.
- D. Essential services and public buildings.
- E. Accessory building, provided that they shall be located as required. Accessory building not to exceed 1,008 square feet per 1 acre of land.
- F. Home occupations, proved that they shall be operated as required.
- G. Animal boarding, with a maximum of 1 animal units (non-domestic) per acre. (See Section 4). Non-domestic animal unit is defined as any of various animals that have been tamed and made fit for a human environment. Fenced areas housing animals described in Section 4 must be landscaped so as to prevent animal waste run-off unto lands owned by adjacent property owners.

Section 3. Construction Standards for Single-family detached dwellings.

- A. No building shall be erected unless the design, location, materials and workmanship are in harmony with existing structures and locations in the residential portions of the district and does not violate any protective or restrictive covenants.
- B. The setback shall be at least 40 feet from front of property, 20 feet from sides of property, and 25 feet from back of property. All fences must be within property lines by one (1) foot, or greater. Structures housing domesticated animals set forth in Section 4 must be separated from any residential buildings by a distance of at least 25 feet.
- C. The foundation shall be permanent and it shall meet the floodplain management requirements of the City.
- D. The floor area shall be on at least 2 x 10 joists or trusses.
- E. Ceilings shall be at least 8 feet high, on the main level and above.
- F. Roofing materials shall be asphalt and wood, the roof pitch shall be at least 4 by 12, and the roof overhangs shall be at least 18 inches.
- G. A septic system meeting Cass County requirements shall be at least 50 feet away from any wells. A cleanout shall be provided at the point of connection from the output of the septic tank to the line leading to the city sewer system. A cover and appropriate riser above the cover shall be provided on the septic tank to permit periodic tank pumping and cleaning. A back flow valve shall be installed in the sewer line between the septic tank and the building.
- H. A lift shall be provided in a full basement (a full story below grade) if there is any plumbing or septic service in that area.

- I. No basement shall be constructed for residential purposes and no basement structure shall be used for residential purposes unless and until the entire superstructure has been erected thereon and has been approved for occupancy.
- J. Homes shall meet the following minimum livable floor area:
 - 1. Rambler 1500 square feet
 - 2. Bi-Level or Split level 2400 square feet
 - 3. 2 Story -- 2700 square feet
- K. The total roof coverage of all buildings on a lot shall not exceed 15% of the total lot area.
- L. There shall be only one entrance to the lot from the street.

Section 4. Animal Unit Table.

Animal Unit: Shall mean the unit of measure used to determine the appropriate density of mature livestock and poultry which shall be kept subject to the restrictions imposed by this Ordinance. For the purpose of this Ordinance, the following equivalents shall apply:

One mature dairy cow, whether milking or dry	1.33 animal unit	8 cows = 10.64 units
One dairy cow, heifer, or bull, other than an animal described above	1.0 animal unit	
One weaned beef animal, whether a calf, heifer, steer, or bull	0.75 animal unit	10 animals = 7.5 units
One cow-calf pair	1.0 animal unit	
One swine weighing fifty-five pounds [24.948 kilograms] or more	0.5 animal unit	
One swine weighing less than fifty-five pounds [24.948 kilograms] or more	0.25 animal unit until weaned	
One horse	2.0 animal unit	
One sheep or lamb / One Goat or kid	0.5 animal unit	
One turkey	0.25 animal unit	
One chicken, other than a laying hen	0.25 animal unit	
One laying hen	0.25 animal unit	
One duck	0.25 animal unit	
Any livestock not listed above equals 1.0 animal unit per each one thousand pounds [453.59 kilograms], whether single or combined animal weight		

The storage or sale of fireworks is prohibited within "R-1 Rural - Small Lot" District or Single-family Dwelling District (Extraterritorial).

(Source: Ordinance No. 1; 2013)

6.0603 “R-1A” DISTRICT OR SINGLE FAMILY DWELING (SMALL LOT)

Statement of intent. The provisions of the “R-1A” District are intended to apply to neighborhoods with low density and lot sizes of less than one acre, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted.

(Source: Ordinance No. 48; 1996; Ordinance No. 56; 1999)

Section 1. Permitted Uses.

All uses included in “R-1” Districts.

(Source: Ordinance No. 56; 1999)

Section 2. Construction Standards for Single-Family Detached Dwellings in “R-1A” Districts.

The same standards as in “R-1” Districts but with the following restrictions:

1. The front yard setback shall be at least 40 feet.
2. The side yard setback shall be at least 20 feet.
3. The back yard setback shall be at least 25 feet.

(Source: Ordinance No. 56; 1999; Ordinance No. 78; 2007)

6.0604 ”R-2” DISTRICT OR LIMITED MULTIPLE FAMILY DWELLING

Statement of intent. The provisions of the “R-2” District are intended to apply to neighborhoods with medium density, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted.

(Source: Ordinance No. 56; 1999)

Section 1. Permitted Uses.

- A. All uses included in “R-1” and “R-1A” Districts.
- B. Two-family Dwellings.

In a two-family district, the following buildings and uses are permitted:

1. Dwelling houses each occupied by not more than two families. Each family shall not be allowed more than two roomers or boarders per family.
2. All other uses permitted in a one-family district.

(Source: Ordinance No. 56; 1999)

Section 2. Construction Standards for Dwellings in “R-2” Districts.

The same standards as in “R-1” Districts but with the following restrictions:

1. The front yard setback shall be at least 40 feet.
2. The side yard setback shall be at least 20 feet.
3. The back yard setback shall be at least 25 feet.

(Source: Ordinance No. 78; 2007)

6.0605 R-3 - Residential Districts - Multi-Family

In a multi-family district the following buildings and uses are permitted:

1. All uses permitted and as regulated in a two-family district.
2. Multi-family dwellings.
3. Private clubs.
4. Lodges or social buildings.
5. Hotels, motels, tourist camps.

6.0606 Accessory Uses in Residential Districts

The following accessory uses and buildings are permitted in residential districts:

1. Professional office for a physician, clergyman, architect, engineer, attorney or similar professional person residing in such main building.
2. Home Occupation. Customary home occupation for gain carried on in the main building or a building accessory thereto requiring only home equipment and employing no non-resident help and no trading in merchandise is carried on.
3. Agricultural uses, gardens, poultry enclosures, beehives.
4. Private garages.
5. Any other accessory use customarily incident to a use authorized in a residential district.

6.0607 Commercial District

The following buildings and uses are permitted in the commercial district:

1. Retail stores and shops.
2. Service establishments.
3. Business and professional offices.
4. Eating establishments.
5. Funeral homes and mortuaries.
6. Transportation services.

7. Amusements and recreation.
8. Wholesale businesses.
9. Storage buildings and warehouses.
10. Any other building or use similar to the uses herein listed in the type of services or goods sold.
11. Any accessory use customarily incident to a use herein listed.

Section 1. “C” DISTRICT OR LIGHT COMMERCIAL DISTRICT

Statement of intent. The provisions of the “C” District are intended to provide areas of commercial establishments to which the public requires direct and frequent access, but which are not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any other nuisance factor other than the incidental noise of the congregation of people and passenger vehicles.

(Source: Ordinance No. 48; 1996)

Section 2. Permitted Uses.

- A. Retail businesses, such as general merchandise, food, liquor, hardware, furniture, and apparel stores; eating and drinking establishments; and drugstores.
- B. Business services, such as banks, and other financial institutions, and professional offices.
- C. Personal services, such as barber and beauty shops, photographic studios, Laundromats and dry cleaning establishments.
- D. Entertainment, social or recreational businesses, such as bowling alleys, health clubs, theaters (excluding drive-ins), night clubs, private clubs and lodges.
- E. Repair services, such as radio, television, and electronics shops, appliance shops, upholstery shops and shoe repair shops.
- F. Cultural and educational facilities, such as trade schools, museums, business colleges, and adult education centers.
- G. Schools and churches.
- H. Public/semi-public facilities, such as armories, parks, police and fire stations; telephone exchange buildings, and civic centers.
- I. Medical and dental facilities, such as clinics, hospitals, nursing or convalescent homes.
- J. Veterinary clinics without overnight facilities.
- K. (Repealed-motels and hotels; source: Ordinance 62; 2002)
- L. Public transportation depots
- M. Greenhouses and plant nurseries.

- N. Automobile service stations, not to include truck stops or overnight truck parking, where motor vehicle fuels and minor automotive accessories are sold at retail and minor services for automobiles are performed, but not to include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other nuisance characteristic. (Source: Ordinance 62; 2002)
- O. Parking lots.
- P. On-premise signs.
- Q. Essential services.
- R. Other: Uses not listed but similar to the permitted uses above and consistent with the stated purpose of this district.

(Source: Ordinance No. 48; 1996; Ordinance No.62; 2002)

6.0608 I - Industrial

The following buildings and uses are permitted in the industrial district:

The compounding, assembly, treatment, manufacture, processing and packing of articles or materials shall be permitted in the industrial district.

- A. Uses permitted. All uses permitted in a C - Commercial District.
- B. Uses prohibited. No dwelling or dwelling unit.

6.0609 A - Agricultural

Section 1. Statement of intent.

The provisions of the “A” District are intended to establish and preserve areas for agricultural users, wherein certain recreational, residential, and public activities which do not significantly change the natural character of the land are permitted.

(Source: Ordinance No. 48; 1996)

Section 2. Permitted Uses.

- A. Commercial agriculture and horticulture as defined by this chapter, to exclude feedlots and poultry facilities.
- B. Farm buildings and accessory structures.
- C. Single family dwelling which are accessory to farming operations and which are located on farmsteads in existence at the time this Ordinance is passed.
- D. Forestry, grazing, and gardening.
- E. Essential services.
- F. Home occupations.
- G. Historic sites.

(Source: Ordinance No. 48; 1996)

Section 3. Conditionally Permitted Uses.

Any conditional use located in this district shall be on a separately surveyed and described parcel and the use shall not be one to which the noise, odor, dust, or chemical residues of commercial agriculture or horticulture might result in creation or establishment of a nuisance or trespass. The following conditional uses may be located in the A District subject to the provisions and requirements herein after imposed for each use and subject further to review and approval by the City Council:

- A. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry, or horticultural services on a fee or contract basis including, but not limited to hay-baling and threshing; horticultural services; crop dusting; grain cleaning and drying; harvesting and plowing; milling and storage of grain; veterinary services; boarding and training of horses; and roadside stands for the sale of agricultural produce grown on the site.
 - 1. An agricultural service establishment shall be incidental and necessary to the conduct of agriculture within the district.
 - 2. All agricultural service establishments shall be located at least 100 feet from any driveway affecting access to a farm dwelling or field and at least 500 feet from any ___ single-family dwelling.
 - 3. All agricultural service establishments shall be screened on the perimeter of the establishment by a solid fence, wall, or natural vegetation not less than six feet in _____ height.
- B. Churches, cemeteries, airports, schools, local government buildings and facilities, and government-owned facilities for the maintenance of roads and highways when necessary to serve the immediate vicinity.
- C. Public parks and recreational facilities, wildlife and game management areas and refuges.
- D. Radio and television towers and accessory building when located such that the right-of-way for said towers is a circle which has a radius equal to the height of said tower.
- E. Public utility and service structures shall be located and constructed at such places and in such manner that they will not segment land or any one farm and will not interfere with the conduct of agriculture by limiting or interfering with the access to fields or the effectiveness and efficiency of the farmer and farm equipment including crop-spraying aircraft.
- F. Non-farm single-family residential subdivisions may be permitted on lots or parcels of land for which a deed has been recorded in the office of the Cass County Register of Deeds upon or prior to the effective date of this Ordinance, or a lot or parcel of land that would have been a lot of record if the document conveying the lot had been recorded on the date of its execution, provided they met all applicable standards and requirements of this chapter and all other applicable city, township, and county regulations and ordinances, subject to the following:
 - 1. The subdivision shall be submitted in accordance with the subdivision regulations of the City of Reile's Acres.
 - 2. Each lot created shall contain no more than one (1) single-family home and shall be a separately conveyed parcel described by a certificate of survey.

3. Each lot created shall be a minimum of one acre in area. A larger plot size may be required by the City Council if necessary for the safe operation of individual wells and ____ septic system.
4. The driveway serving the subdivision shall be separated from adjacent driveways in accordance with State, County, and/or Township regulations.
5. All non-farm residential buildings shall be set back a minimum of 300 feet from the nearest farm building.

(Source: Ordinance No. 48; 1996)

ARTICLE 7 - Area Districts

6.0701 Area Regulations - Residential Districts

“R-1” -- Minimum Lot Size: One (1) acre, more or less.

(Source: Ordinance No. 48; 1996)

“R-1A” -- Minimum Lot Size: three-fourths (3/4th) acre, more or less.

(Source: Ordinance No. 56; 1999; Ordinance No. 69; Ordinance No. 73)

“R-2” – Minimum Lot Size: not less than 15,000 square feet for each dwelling unit or dwelling group having four dwelling units or less. Apartment buildings with more than four dwelling units shall not be less than 3,750 square feet per one bedroom apartment, 4,000 square feet per two bedroom apartments, and 5,000 square feet per three bedroom apartment.

- A. The Front Yard setback shall be at least 30 feet.
- B. The Side Yard setback shall be at least 15 feet.
- C. The Back Yard setback shall be at least 25 feet.
- D. The building height shall be limited to two and one-half stories and shall not to exceed 35 feet.

(Source: Ordinance No. 48; 1996; Ordinance No. 56; 1999)

Section 6.0702 Area Regulations – Agricultural District

None exist except newly annexed land without prior classification is determined to be agricultural.

Section 6.0703 Area Regulations – Commercial District

None required except where lot in the C District abuts a yard in any residential district, in which case, there shall be provided on the commercial lot at least 20 feet of yard between the lot line and any structure.

(Source: Ordinance No. 48; 1996)

Section 6.0704 Area Regulations – Industrial District

None exist.

ARTICLE 8 - Forestry, Boulevard Trees and Grass or Ground Cover:

6.0801 Boulevard Trees:

- A. Tree Layouts: It is required by the city to have at least one (1) tree on a boulevard every forty (40) feet unless the Shade Tree Committee determines otherwise. Tree layouts (plans) shall be coordinated with existing corridor planting plans, subdivision street landscape plans, and other established landscape plans to provide the desired effect as determined by this standard and the Shade Tree Committee.
- B. Tree Spacing: Trees shall be planted twelve (12) feet from driveways and alleyways. The spacing shall be at least twenty five (25) feet from existing trees. On corner lots, the trees shall be planted forty (40) feet from the point of intersection of the curbs. The Shade Tree Committee shall have the final approval of the location of the tree and have the right to approve variances from the above requirements where conditions necessitate.
- C. Size Requirements: No tree measuring less than 1 ¼ inches in diameter of trunk one foot above ground may be planted on the City Boulevard. The lowest branch shall not be over 9 feet from the ground. The tree must be a single stem trunk and have a straight vertical line.
- D. The home owner must submit to cityoffice@reilesacresnd.org a Boulevard Tree Permit found on the Reiles Acres website prior to planting any boulevard trees.
- E. A member of the Reiles Acres Shade Tree Committee must stake where all boulevard trees must be planted.
- F. Health and Maintenance of Trees
 - 1) Acceptable trees include those identified as suitable for the intended use in the Approved Tree List.
 - 2) Species of trees shall not be planted if the roots cause damage to public works, the branches are subject to a high incidence of breakage, and the fruit is considered a nuisance or high maintenance as determined by the Shade Tree Committee.
 - 3) All trees shall be planted in good condition. All plant materials to be installed shall be nursery grown and root pruned stock free of insects, disease, and defects.
 - 4) It shall be the duty of all persons, whether owners or tenants, to keep the shade trees along the public streets and avenues adjoining such property trimmed in such a manner that such trees shall not interfere with travel on said streets, avenues, and sidewalks. No tree shall be hatracked which will initiate the decay of trees and attract wood boring insects.
- G. Approved Boulevard Tree List:

- 1) Honey locust (thornless only)
- 2) Thornless Hawthorne
- 3) Prairie Stature Oak, Bur Oak, or Swamp White Oak
- 4) Kentucky Coffee Tree
- 5) Ironwood
- 6) Maple (any variety)
- 7) Lindens (any variety)
- 8) Lewis and Clark Expedition Elm
- 9) DED Resistant Elm
- 10) Prairie Horizon Alder
- 11) Hackberry
- 12) European or Mountain Ash
- 13) Flowering Crab (any fruitless variety) Red Splendor and Radiant Only
- 14) Cork Tree
- 15) Prairie Gem Pear

6.802 Grass or Ground Cover:

Grass shall be planted in species normally grown as permanent lawns, and may be sodded, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse grass seed shall be sown for immediate protection until complete coverage is otherwise achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover such as organic material shall be planted in such a manner as to present a finished appearance and seventy-five (75) percent of complete coverage after two (2) growing seasons, with a minimum of fifteen (15) inches on center. In certain cases, ground cover also may consist of rocks, pebbles, sand and similar materials if approved by the city.

6.803 Maintenance:

Owner has a duty to trim trees and to keep the shade trees along the public streets and avenues adjoining such property trimmed in such a manner that such trees shall not interfere with travel on said streets, avenues, and sidewalks.

It shall be unlawful for any owner to permit a dead tree which might endanger the health or safety of persons or property to remain on real property in the city. A determination of whether or not a tree or part thereof is dead or diseased shall be made by a qualified arborist employed by the city.

Owner has a duty to trim or cut excessive growth of vegetation.

Owner has a duty to eliminate weeds.

Violations:

The city shall notify the property owner and tenant in writing of any maintenance violations. Upon notification of a maintenance violation, the property owner, tenant, or authorized agent shall correct the violation within 30 days. Where immediate attention and care may restore damaged trees, the owner or tenant shall submit a treatment narrative and schedule prepared by a registered landscape architect or a local nursery professional. If the treatment plan and procedures fail to restore the plants to vigorous growth to meet their normal growth habit and the original design intent within 90 days, then the trees must be replaced. If not replaced or a schedule prepared following the above mentioned guidelines, a fine of \$25 will be instituted, each day in violation will

constitute a new violation. The City may further enforce this Chapter by filing an action in the appropriate court for an injunction to enforce provisions of this Chapter; to cause correction of any such violation; for assessment and recovery of a civil penalty for such violation; or to pursue any other appropriate civil remedy.

6.0804 Definitions:

The following definitions are intended to provide a common interpretation of terms in order to avoid confusion and insure that the standards are utilized in a uniform manner.

- A. **APPROVED TREE LIST:** A list of trees that is approved by the Shade Tree Committee and the City of Reiles Acres to plan within the city limits.
- B. **BOULEVARD:** An area located in front of a property facing a city street or public right of way.
- C. **CALIPER:** A way of measurement for trees around the trunk of the tree, in otherwords, by measuring the outer circumference or perimeter of a tree trunk.
- D. **DEAD TREE:** Any tree that is diseased; or has a dead, diseased, or broken limb or a dead, diseased or broken trunk, or any tree that is totally or partially uprooted, if the height of the tree or the length or the limb or trunk is such that, if it were to fall, the tree, limb or trunk could fall within the public right of way or strike a structure or improvement to real property.
- E. **EXCESSIVE GROWTH OF VEGETATION:** shall mean any Weed, grass, or other uncontrolled and uncultivated vegetation which is more than eight (6") inches in height above the ground or in length if matted down as measured along the stem. The abatement of Excessive Growth of Vegetation may include trees, bushes, shrubs, flowers, and ornamental or garden plants, either cultivated or uncultivated, if such vegetation is not made readily distinguishable from any Excessive Growth of Vegetation.
- F. **GRASS:** Vegetation consisting of typically short plants with long narrow leaves, growing wild or cultivated on lawns and pasture.
- G. **GROUND COVER:** Plants grown for their low-spreading capabilities for the protection of soils, to prevent growth of weeds and for aesthetic purposes.
- H. **HATRACKING:** A type of pruning where most of the canopy is removed from a tree, leaving mostly branch stubs. Hatracking initiates decay in the trunk and main branches and attracts wood boring insects.
- I. **OWNER:** Shall mean the named property owner as indicated by the records of the Records and Tax Administration or Appraiser's office in Cass County, North Dakota.
- J. **PUBLIC RIGHT OF WAY (ROW):** The strip of land over which facilities such as highways, railroads, or power lines are built. The customary or legal right of a person, vessel, or vehicle to pass in front of another.
- K. **SHADE TREE COMMITTEE:** An employee or appointed members of the city that is responsible for the promotion of the health and sustainability of the urban forest within the municipal limits of the City of Reiles Acres and providing public

education as to the benefits and best use of the urban forest and the maintenance of such forest.

L. SWALES: A depression in grade to control and direct the flow of surface water.

M. WEEDS: shall mean to include, but not be limited to, barnyard grass _____ (Echinochloa crusgalli); beggar tick, sticktight, devil's pitchfork (Bidens frondosa); burdock (Arctium minus); Canada goldenrod (Solidago canadensis); crabgrass, large or large hairy (Digitaria sanguinalis); cocklebur (Xanthium strumarium); curled dock, sour dock (Rumex crispus); curltop smartweed (Polygonum lapathifolium); daisy _ fleabane (Erigeron strigosus); dandelion (Taraxacum officinale); dogbane (Apocynum cannabinum); fall panicum (Panicum dichotomiflorum); flannel mullein (Verbascum thapsus); fireweed (Kochia scoparia); foxtail barley (Hordemjubatum); green foxtail ___ (Solaria viridis); hedge parsley (Forilis arvensis); hemp (Cannabis sativa); hoary _ verbena (Verbena stricta); horsenettle (Solanum carolinense); horseweed (Conyza canadensis); Indian mallow, velvet leaf (Abutilon theophrasti); ironweed (Vernonia baldwinii); Japanese brome (Bromus japonicus); lambsquarter (Chenopodium album); _ maple-leaved goosefoot (Chenopodium hybridum); milkweed (Asclepias syriaca); mullein, common (Verbascum thapsus); patience dock (Rumex patientia); Pennsylvania smartweed (Polygonum pennsylvanicum); pennycress (Thlaspi arvense); pigweed, rough, or redroot (Amaranthus retroflexus); pokeberry (Phytolacca americana); prickly wild lettuce (Lactuca serriola); purpletop grass (Tridens flavus); ragweed, common ___ (ambrosia artemisiifolia); ragweed, giant kinghead (Ambrosia trifida); sagewort ___ (Artemisia ludoviciana); shepherd's purse (Capsella bursa-pastoris); smooth dock ___ (Rumex altissimus); snakeroot (Eupatorium rugosum); Spanish needles (Bidens bipinnata); spurge, nodding or upright spotted (Euphorbia maculata); stinging nettle, nettle (Urtica dioica); stinkgrass, lovegrass (Eragrostis cilianesis); sumpweed (Iva _ annua); swamp smartweed, tanweed, devil's shoestring (Polygonum coccineum); tall ___ thistle (Cirsium altissimum); treacle mustard or spreading erysimum (Erysimum arvense); tumble panicgrass or witchgrass (Panicum capillare); tumbleweed, tumble amaranth (Amaranthus albus); water hemp (Amaranthus rudis); and wild four-o'clock (mirabilis nyctaginea).

6.0805. VIOLATIONS

The city shall notify the property owner and tenant in writing of any maintenance violations. Upon notification of a maintenance violation, the property owner, tenant, or authorized agent shall correct the violation within 30 days. Where immediate attention and care may restore damaged trees, the owner or tenant shall submit a treatment narrative and schedule prepared by a registered landscape architect or a local nursery professional. If the homeowner is still not following the above ordinances after 30 days and no care plan has been produced, a fine of \$25 per day will be due to the city, each day in violation is a new occurrence.

ARTICLE 9 - Enforcement

6.0901 Administrative Official

An administrative official designated by the City Council shall administer and enforce this chapter. This person may be provided with the assistance of such other persons the City Council may direct.

(Source: Ordinance No. 48; 1996)

- A. Administrative Official. Except as otherwise provided herein the zoning administrator shall administer and enforce the provisions of this chapter, including the receiving of applications, the inspection of premises and the issuing of building permits. No building permit or certificate of occupancy shall be issued except where the provisions of this chapter have been complied with.

- B. **Building Permit Required.** No building or structure shall be erected, added to or structurally altered until a permit therefore has been issued by the zoning administrator. All applications for such permits shall be in accordance with the requirements herein and, unless upon written order of the Board of Adjustment, no such building permit or certificate of occupancy, shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of any of the provisions of this chapter.
1. **Matter Accompanying Application.** There shall be submitted with all applications for building permits two copies of a layout or plot drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this ordinance.
 2. **Payment of Fee.** One copy of such layout or plot plan shall be returned when approved by the zoning administrator together with such permit to the applicant upon the payment of a fee of (Listed on the Reile's Acres Building Permit Application).
- C. **Certificates of Occupancy**
1. No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the zoning administrator, stating that the building or proposed use thereof complies with the provisions of this chapter.
 2. No non-conforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the zoning administrator therefore.
 3. All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been approved.
 4. The zoning administrator shall maintain a record of all certificates and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.
 5. No permit for excavation for, or the erection or alteration of or repairs to any building shall be issued until an application has been made for the certificate of occupancy.
 6. Under such rules and regulations as may be established by the Board of Adjustment and filed with the zoning administrator, a temporary certificate of occupancy for not more than thirty (30) days for a part of a building may be issued by him.

ARTICLE 10. Fences, Sheds, Pools, and Decks

6.1001 Fences

Any fences that are constructed must meet the following requirements:

- A. **For residences:**
1. **Height and Location.** In any residential district, fences, hedges, and plantings may be permitted in the buildable area and in any required yard, or along the edge of any yard, provided that no fence or hedge along the sides or front edge of any required front yard shall be over two and one-half (2 ½) feet in height, except on through lots or double frontage lots where one of the front yards is intended to serve as the rear yard and is consistent with the other lots on the block in which case a fence or

hedge may be up to six (6) feet in height. Coordinated fencing schemes for the block are strongly encouraged, and if possible developed during the subdivision process. No fence or hedge within any buildable area or along any side or rear lot line shall be over six (6) feet in height. Open fences, such as split rail, which permit direct vision through at least 75% of the fence surface area shall be allowed a height of four (4) feet along the sides or front edge of any front yard.

2. Construction Standards. No fence, hedge, or planting shall be constructed or maintained with electrified barbed wire, or other spiked materials which may pose an injurious hazard to public health and safety. Posts and other supporting structures used in the construction of fences shall be faced inward toward the property being fenced.
3. Accepted Fence Building Materials.
 - a. Cedar, any variety and any class from Heartwood from A-D and center cut
 - b. Vinyl if colors are natural to the environmental surroundings. i.e. browns and most varieties of white
 - c. Chain-link is only allowed for dog kennels, there will be no more than 40 uninterrupted lineal feet of chain link on any one residential lot.
- B. For Public Fences: Fences used in connection with public facilities and public recreational uses shall have a maximum height of ten (10) feet in any yard and be of the open fence variety. Residential construction standards shall apply to all public fences.
- C. For Temporary Fences: Temporary fences needed to enclose sites, such as construction sites, do not require fencing permits.

(Source: Ordinance No. 48; 1996)

6.1002 Accessory building and use provisions

Accessory buildings and uses, except otherwise permitted in this chapter, shall be subject to the following regulations:

- A. No detached accessory building or use in any residential district shall have an eave height that exceeds twelve (12) feet.
- B. No detached accessory building or use shall be erected in any required yard, except a rear yard, nor shall it be located closer than the eave height of the building from the lot line.
- C. There can be no more than two detached accessory buildings and no single accessory building shall exceed 1,008 square feet of floor area. The accessory building width shall be no less than two-thirds of the length of the building. Accessory buildings shall not be pole barns or steel buildings. Accessory buildings shall match the color and style of the primary building on the lot. If the Color and Style of Siding is changed on the Primary Living structure, it must also be changed on the accessory building. If there is a driveway to an accessory building, it shall be constructed with either asphalt or concrete.
- D. An accessory building or use which is structurally attached to a main building, shall be subject to, and must conform to, all regulations of this chapter applicable to the main building.
- E. No secondary structure can be built without a primary dwelling unit on that lot.

6.1003 Swimming pools

1. **DEFINITIONS.** For the purpose of this section, certain terms words and phrases are defined as _ follows:
 - A. "Above-ground/on-ground pool." See definition of swimming pool.
 - B. "Barrier" shall mean a fence, wall, building wall or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.
 - C. "Grade" shall mean the underlying surface such as earth or a walking surface.
 - D. "Hot tub." See definition of swimming pool.
 - E. "In-ground pool." See definition of swimming pool.
 - F. "Spa, Permanent." See definition of swimming pool.
 - G. "Spa, Portable" shall mean a non-permanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product and which is cord connected (not permanently electrically wired.)
 - H. "Swimming Pool" shall mean any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.
 - I. "Swimming Pool, Indoor" shall mean a swimming pool which is totally contained within residential structure and surrounded on all four sides by walls of said structure.
 - J. "Swimming Pool, Outdoor" shall mean any swimming pool which is not an indoor pool.

(Source: Ordinance 42; 1994)

2. REQUIRMENTS

- A. Outdoor Swimming Pool. An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:
 1. The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches.
 2. Openings in the barrier shall not allow passage of a 4-inch diameter sphere.
 3. Solid barriers which do not have openings, such as masonry or stone walls, shall not contain indentations or protrusions except for tooled masonry joints.

4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1 $\frac{3}{4}$ inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 $\frac{3}{4}$ inches in width.
5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches or more, spacing between vertical members shall not exceed 4 inches. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed $\frac{3}{4}$ inches in width.
6. Maximum mesh size for chain link fences shall be a 1 $\frac{1}{4}$ -inch square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to no more than 1 $\frac{3}{4}$ inches. The wire shall not be less than 9 gauge.
7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall be no more than 1 $\frac{3}{4}$ inches.
8. Access gates shall comply with the requirements of Items 1 through 7 and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, (1) the release mechanism shall be located on the pool side of the gate at least 3 inches below the top of the gate and (2) the gate and barrier shall have no opening greater than $\frac{1}{2}$ inch within 18 inches of the release mechanism.
9. Where a wall of a dwelling serves as part of the barrier, doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened, and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as a touchpad or switch to temporarily deactivate the alarm for a single opening. Such deactivation shall last for no more than 15 seconds. The deactivation switch shall be located at least 54 inches above the threshold of the doors. Other means of protection, such as self-closing doors with self-latching devices approved by the building official, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by the alarm system described above.
10. Where an aboveground pool structure is used as a barrier or sphere the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then (a) the ladder or steps shall be capable of being secured, locked or removed to prevent access or (b) the ladder or steps shall be surrounded by a barrier which meets the requirements of items 1 through 9. When the ladder or steps are secured, locked or removed, and opening created shall not allow the passage of a 4-inch diameter sphere.

B. Indoor Swimming Pool. Doors with direct access to an indoor swimming pool shall comply with Section 42-0102 (A) (9).

(Source: Ordinance 42, 1994)

3. Penalties

The violation of any of the provisions of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 2-107. Each day such violation continues shall be considered a separate offense.

(Source: Ordinance No. 65; 2002)

Violation of the provisions of the ordinance relating to swimming pools or failure to comply with any of its requirements are non-criminal infractions and shall carry the penalty of paying a fine as is designated hereinafter. The fees required for a non-criminal disposition pursuant to either North Dakota Century Code Section 39-06.1-02 or 39-06.1-03 shall be as follows: A fee of \$20.

(Source: Ordinance 42, 1994)

(Source: Ordinance No. 48; 1996; 2009; Ordinance No. 78; 2007)

6.1004. DECK

REQUIREMENTS

1. **Building Permits** are required for all decks regardless of size or if the deck is attached or unattached to a dwelling.
2. **Building Permit Fees** are based on the valuation of the construction project; this includes the materials and labor. If you will be doing the work yourself an estimate of labor cost shall be determined and included with the cost of materials. Plan submittals shall be drawn to scale, neat and legible on suitable material (min. 11x17). The plan submittal shall be of sufficient clarity to indicate the location and extent of the work proposed. Information required to be submitted along with your application for a building permit:
3. **SITE PLAN** – Drawing to scale shown lot dimensions, deck location and distances from property lines.
4. **PLAN VIEW** – Proposed deck size and location of stairs.
 - Size, type and spacing of floor joists.
 - Size and type of decking. (Plastic/composite decking must be approved before ____ installing.)
5. **ELEVATIONS** – Size, type, location and spacing of posts, beams and headers.
 - Height of structure from grade.
 - Diameter and depth of footings.
 - Joist hangers, flashing and fasteners.
 - Guard height (if any) and spacing intermediate rails.
 - Stair and handrail details.

6. DECK CONSTRUCTION GUIDELINES

a. **Setbacks** – Decks may extend 10 feet into the required front and rear yards and 3 feet into the required side yards. In no case shall a deck be constructed over any easement. Included with this guideline is Zoning Information regarding required yards. It is the permit holder's responsibility to locate and verify all property lines.

b. Live Loads – All deck floor systems must be designed to support a live load of 40 pounds per square foot.

c. Footings – Frost protected footings are not required but are recommended. Frost depth for the City of Reile's Acres is 54 inches. Consideration should be made if the deck is intended to be enclosed in the future, if so then a frost protected footings will be required and may need to be designed by a Registered Professional Structural Engineer.

d. Wood Required – All exposed wood used in the construction of decks are required of natural resistance to decay (heartwood of redwood, cedar or black locust) or approved treated wood. This includes posts, beams, joists, decking, guards, stairs and rails. All lumber must bear the quality mark of an approved inspection agency. Plastic/composite decking must be installed and supports spaced on center per manufactures specifications. A copy of these specs report must be made available for the installer and inspector.

e. Flashing – All connections between deck and dwelling must be flashed and weatherproof.

f. Ledger Board – Siding must be removed to allow this member to be properly fastened. Where supported by attachment to an exterior wall, decks shall be anchored to the structure and designed for both vertical and lateral loads. Toenails or nails are not to be used for this purpose because they are subject to withdrawal. Where positive connection to the primary building structure cannot be verified during inspection, deck must be self-supporting. Fasteners must be long enough to penetrate framing members. Decks shall not be supported by cantilevered floor framing without specific engineering.

g. Joist/beams – Attached are design guideline to assist in determining the minimum size and spacing for floor joists and supporting beams. Joist with cantilevers which exceed 3 times the nominal depth of the joist will required structural engineering. Beams cannot overhang posts by more than 12 inches unless designed by a structural engineer. Built-up beams (two or more members) are to be nailed, screwed or bolted together.

h. Joist Hangers – Floor joists are to be supported by approved framing anchors and joist hangers.

i. Fasteners – All fasteners shall be non-corrosive. Joist hangers and other framing anchors are to be installed according to product manufacturer's instructions and their recommended fasteners.

j. Guards – All open side of decks which are more than 30 inches above the grade or floor below, must be protected by a guard rail not less 36 inches in height. Open side of stairs with a total rise of more than 30 inches above the grade or floor below shall have guards not less than 34 inches in height measured vertical from the nose of the tread. Required guards shall have intermediate rails or ornamental closures that do not allow passage of a sphere 4 inches in diameter. The triangular openings formed by the riser and the bottom rail of a guard at the open side of a stairway may be of such size that a sphere of 6 inches in diameter cannot pass through.

k. Stairs – Stairways shall be a minimum of 36 inches in width. The maximum riser height shall be 8" inches (3/8 inch maximum variation in riser height) and the minimum tread depth shall be 9" inches (3/8 inch maximum variation in tread depths). Open risers are permitted, provided that the opening between treads does not permit the passage of a 4 inch diameter sphere. For minimum width stairs, a minimum of three stringers is required. If 5/8 inch decking material is used for treads, stringers shall be spaced a maximum of 16 inches on center.

l. Handrails – A handrail shall be provided on at least one side of all stairways having 4 or more risers. Handrails shall be placed not less than 34 inches or more than 38 inches above the nosing of the treads and be continuous the full length of the stairs. Handrails projecting from a wall or guardrail must have space of not less than 1 1/2 inches between the wall or guardrail and the handrail. The handgrip portion of handrails shall have a cross section of 1 1/4 inches minimum to 2 5/8 inches maximum in cross-sectional dimension and must have a smooth surface with no sharp corners.

m. Required Inspections - In most instances the framing can be inspected at the final inspection. If your deck is less than 3 feet above the ground, a separate framing inspection will be required before the decking is installed. It shall be the responsibility of the permit holder to notify the Building Department when work is ready for an inspection. The following sheets are only provided as reference to assist you in drafting your plans for your deck.

ARTICLE 11. RESIDENTIAL AND COMMERCIAL PARKING, HOME OCCUPATIONS

6.1101. RESERVED

6.1102 RESERVED

6.1103 Home occupations

Home occupations, as defined by this Ordinance, shall be subject to the following standards:

- A. No person other than members of the family residing on the premises shall be engaged in such occupations.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the main floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation.
- C. There shall be no change to the outside appearance of the premises that would reflect the presence of a home occupation other than one sign, not to exceed one square foot, non-illuminated, and mounted flat against the wall of the principal building.
- D. No use shall create noises, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard of nuisance detectable to the normal senses off the lot or in a neighboring dwelling unit. In the case of electrical interference, no equipment shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- E. For uses within the dwelling unit, the entrance to the space devoted to such occupation shall be within the dwelling unit.
- F. No home occupation shall be permitted that creates the need for parking which frequently infringes upon the on-street parking in the neighborhood.
- G. The home occupation must be conducted entirely within a building.
- H. There shall be no exterior storage or equipment or materials used in the occupation.

(Source: Ordinance No. 48; 1996)

6.1104 RESERVED

6.1105 Conditional Use Permits

6.1105.1 Statement of intent

The provisions of a “Conditional Use Permit” are intended to grant a Conditional Use wherein the change in zoning is not in the best interest of the City of Reile’s Acres and where the restrictions imposed by the existing zoning regulations create an undo hardship in individual cases.

(Source: Ordinance No. 56; 1999)

6.1105.2 Application.

The application for Conditional Use Permit shall be in writing and shall be made by the owner of the property for which the Conditional Use is sought. The application shall be signed by the owner of the property and shall be accompanied by an amount sufficient to cover the cost of processing the application. The application shall contain the proper and legal description of the property and shall contain drawings or word descriptions of the proposed use for which the permit is sought. The Designated Administrator may require additional information from the applicant if deemed necessary to decide the merits of the application.

(Source: Ordinance No. 56; 1999)

6.1105.3 Issuance of Permits

The City Council shall find that the Conditional Use Permit:

- A. Will not affect the health or safety of persons working or residing in the neighborhood.
- B. Will not be detrimental to Public Welfare or injurious to property or improvements of the neighborhood.
- C. Shall comply with all other provisions of the law and shall comply with all ordinances. In granting a conditional use permit, the Council may designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the fore going requirements and continue to do so.
- D. Shall not be deemed to change the zoning.. The zoning of the property prior to the Conditional Use will remain unchanged. In the event the use of any property, as permitted in the Conditional Use Permit, is terminated for any reason, the Conditional use Permit shall expire.
- E. Be granted in accordance with this section shall expire in one year unless the construction or use authorized by said Conditional Use Permit shall have commenced.

(Source: Ordinance No. 56; 1999)

6.1106 Parking and loading requirements

6.1106.1 Automobile parking space required

- a. No building shall be erected, enlarged to the extent of increasing the floor area, or changed in use unless there is provided on the lot, space for parking of automobiles as specified below. When sufficient off-street parking cannot be provided on the same lot or a lot contiguous to the principal use because of unique circumstances, and arrangements can be made to provide off-street parking on a noncontiguous lot, such parking arrangements shall be considered by the Planning and Zoning Commission on a case-by-case basis. The Planning and Zoning Commission may grant permission to provide parking on a noncontiguous lot provided traffic or land use problems are not created, and a long-term

agreement can be negotiated so the required off-street parking is maintained as long as the principal use exists.

- b. The Planning and Zoning Commission may allow sharing of required off-street parking by two separate uses provided the normal peak parking times of the two uses do not coincide. Only the off-street parking spaces not normally used by the off-peak use shall be counted as off-street parking for the peak use. Each use shall have the total required off-street parking available during their respective periods of peak parking use. A long-term agreement shall be negotiated whereby both uses are bound to the establishment and maintenance of the shared off-street parking.
- c. If it can be demonstrated by the property owner through market studies or other means that the required off-street parking is excessive and a lesser requirement justifiable, the City Council may reduce the number of required spaces by passage of a resolution approved by a majority of the members of the City Council.
- d. 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 (9) feet by nineteen (19) feet, exclusive of aisle width. For any parking area of six or more cars, a suitable mean of turnaround must be provided at maximum design capacity so no vehicle shall back onto public streets or alleys.
- e. 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 employee. The largest shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.
- f. 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 building or fire code regulations, whichever is greater.
- g. Any use not specifically mentioned below shall meet the requirements for uses most clearly related as determined by the Zoning Enforcement official.

61106.2 The number of off-street parking spaces which shall be required are as follows:

- A. For Agricultural Support Uses: One space per employee on the largest shift, plus one space per 200 square feet of gross floor area provided for customer sales and service operations.
- B. For Single-Family Residential Uses: - Two spaces per dwelling.
- C. For Institutional, Recreational and Special Residential Uses:
 - 1. Churches – One space per three seats of maximum capacity.
 - 2. Community and Recreation Center – One space per 250 square feet of gross floor area, or one space per four patrons to the maximum capacity, plus one space per employee on the largest shift.

3. Day or nursery School, Child Care Facility - One space per teacher/employee on the largest shift, plus one space per ten students for loading and unloading.
 4. Libraries and Museums – One space per 350 square feet of floor area or one space per four seats to the maximum capacity, whichever is greater, plus one space per employee on the largest shift.
 5. Nursing Homes – One space per six patient beds, plus one space per employee on the largest shift.
 6. Schools:
 - a. Elementary and Junior High – One space per teacher and staff member
 - b. Senior High – One space per teacher and staff member on the largest shift, plus one space per five students,
 - c. College, Trade and Vocational – One space per staff member of the largest shift, plus one space per four students of the largest class attendance period.
 7. Swimming Facility – One space per 100 square feet of gross water area, plus one space per employee on the largest shift.
 8. Tennis, Racquetball, Handball Courts - Two spaces per court, plus one space per employee on the largest shift.
 9. Bowling Alley – Three spaces per lane, plus one space per employee on the largest work shift.
 10. Miniature Golf – One space per hole, plus one space per employee on the largest work shift.
 11. Skating Rink, Ice or Roller - One space per 300 square feet of gross floor area.
 12. Health Club – One space per 100 square feet of gross floor area, plus one space per employee on the largest shift.
 13. Golf Course – Five spaces per hole.
 14. Other Commercial Recreational Uses – One space per four patrons to the maximum capacity of the facility, or one space per 250 square feet of gross floor area, whichever is more appropriate.
- D. For Commercial and Entertainment Uses, except as specifically designed below – One space per 250 square feet of gross floor area of customer sales and services, plus one space per 150 square feet of storage and/or office gross floor area.
1. Banks – One space per 200 square feet gross floor area.
 2. Eating and Drinking Establishments – One space per four patron seats or one space per 100 square feet of gross floor area, whichever is greater, plus one space per employee on the largest shift.
 3. Fast Food Establishments:

- a. With Seating – One space per three patron seats, plus one space per employee on the largest shift.
 - b. Without Seating – One space per 200 square feet of gross floor area, plus one space per employee on the largest shift.
4. Funeral Home – One space per four patron seats or twenty five (25) spaces per chapel unit, whichever is greater.
 5. Grocery or Supermarket – One space per 200 square feet of gross floor area or customer sales and service, plus on space per 200 square feet gross floor area of storage.
 6. Hospital – One space per three patient beds, plus one space per staff doctor and per employee on the largest shift.
 7. Hotel or Motel – One space per room or suite, plus 50 percent of the spaces otherwise required for accessory uses, e.g., restaurants and bars.
 8. Private Clubs and Lodges – Required parking spaces are to be determined by the specific uses associated with the facility.
 9. Repair Services – A minimum of three spaces shall be provided for the first 2,000 square feet of gross floor area, plus one additional space for each 1,000 square feet of gross floor area thereafter, plus one space per employee on the largest shift.
 10. Furniture and Home Furnishing Stores – One space per 500 square feet of customer sales, plus one space for every 1,000 square feet of storage area.
 11. Self-Service Laundry – One space per three machines.
 12. Vehicle Repair and Maintenance Services – One space per 400 square feet of gross floor area, plus one space per employee on the largest shift.
- E. Office Uses, except as specifically designated below – One space per 250 square feet of gross floor area, plus one space per employee on the largest shift.
 1. Beauty and Barber Shops – Two spaces per operator, plus one space per employee on the largest shift.
 2. Medical Offices and Clinics – Five spaces per doctor, plus one additional space per employee on the largest shift.
 - F. Nursery Uses – One space per employee on the largest shift, plus one space per 500 square feet gross floor area of inside sales or display.
 - G. Handicapped Parking – All parking lots must have a minimum of one designated handicapped space for each fifty (50) required parking spaces. Each handicapped parking space shall be a minimum of twelve (12) by nineteen (19) feet and shall be properly striped, signed and posted.

(Source: Ordinance No. 48; 1996)

6.1106.2 Plans and approval required

Plans for off-street parking spaces, shall be prepared and submitted to the Building Administrator for review and approval prior to issuance of a development permit. Before approving any parking layout, the Building Administrator shall determine that the spaces provided are usable and meet standard design criteria. All required off-street parking spaces shall be clearly marked.

(Source: Ordinance No. 48; 1996)

6.1106.3 Design standards

- A. In all residential districts, required parking spaces shall be located on the same premises as the use they serve. In other districts, they shall be located on the premises or within 300 feet distance.
- B. Parking area for single-family dwellings shall be in the garage, in the rear or side yards, or on the driveway leading to the garage only.
- C. Parking areas shall be used for automobile parking only, with no sales, dead storage, repair work, dismantling or servicing of any kind permitted.
- D. All uses, excluding single-family residences, where parking or access facilities are located within twenty (20) feet of a single-family property line, shall be required to effectively screen their parking facility from the residential use. Screening may include a sight obscuring fence at least five (5) feet in height or plantings of sufficient type, density, and height so as to provide year-round screening. Before a development permit shall be issued, the Building Official shall approve the screening proposal.
- E. Off-street parking shall be improved with a durable surface, afford adequate drainage and shall have bumper guards, unless the owner can establish to the satisfaction of the Building Official via appropriate written documentation that such guards are unnecessary to define the parking area and/or protect buildings, fences and other structures.
- F. All sources of parking area lighting shall be fixed, directed and designed so as to not create a nuisance to any abutting residential properties.

(Source: Ordinance No. 48; 1996)

6.1106.4 Required off-street loading spaces

Loading spaces required under this section shall be at least fifty (50) feet long and twelve (12) feet wide. Every lot used for commercial or industrial purposes and having a building or buildings with a total floor area of at least 10,000 square feet and every lot used for office or research purposes on which there is a building or building having a total floor area of at least 20,000 square feet, shall be provided with an off-street loading space. An additional off-street loading space shall be required for lots used for commercial or industrial purposes where the floor area of all buildings exceeds 100,000 square feet.

(Source: Ordinance No. 48; 1996)

6.1106.5. Off Street Parking

A. Purpose: To prohibit the parking or storage of certain vehicles and equipment and prevent the extended storage of those vehicles and equipment which (due to general factors of nuisance) affects the well-functioning and character of a residential neighborhood and the community.

B. For the purposes of this ordinance, the following definitions apply:

- 1. Currently Licensed and/or registered Motorized vehicle or Trailer. – (If required by law) Any motorized vehicle or equipment which is licensed and operable for the current year. This includes passenger vehicles with a cargo capacity rating of one ton or less and recreational equipment.

2. Improved Parking Surface - Shall consist of a durable surface to include concrete or asphalt, gravel may be used only in instances where the existing driveway has not been improved to concrete or asphalt anywhere from the street to the garage door.

i. Upon the sale of homes that were grandfathered into non Improved Surface Parking, new owner will construct all existing parking spaces/driveways to meet the definition of Improved Parking Surface. Grass, gravel, sand or dirt does not constitute a durable surface.

3. Front Yard - The area measured outward from the building or structure in a contiguous area located between the buildings or structure and the edge of any lot lines or easements serving one or more abutting lots.

4. Side Yard – An open space extending from the front yard to the rear yard and lying between each side lot and the closest point of the building or structure.

5. Rear Yard – The open space extending across the full width of the lot located between the rear lot line and the building or structure. The rear of a building shall be opposite of the designated front of the building. On reverse frontage lots the rear yard shall be open space between the rear of the building or structure and the street to which there is no access.

C. Currently licensed vehicle or equipment parking on residential lots may be parked in the following-described areas:

1. Garage. Parking or storage may occur entirely within a garage.

2. Rear Yard. There will be NO PARKING in Rear Yards.

3. Side Yard. Parking or storage may occur on an improved parking surface within the required side yard provided that a 45-foot setback is maintained on the street side of a corner lot and a 12' foot setback is maintained from the side lot line on interior lot lines. This side yard requirement may be waived should an approved 6' privacy fence or equivalent landscaped screened area exist between vehicle/equipment parking and the required side yard lot line.

Under no circumstance shall vehicle or equipment parking occur within 3' of the sidewalk or, where no sidewalk exists, 12' from the front lot line.

4. Front Yard. Currently licensed vehicles and equipment may be parked during any period on your driveway. All vehicles and equipment shall maintain a 3' setback from the sidewalk or, where no sidewalk exists, a 12' setback from the front property line. Under no circumstances shall vehicle or equipment parking block the public right-of-way.

5. No such vehicle or equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

6. Violations: The city shall notify the property owner and tenant in writing of any violations. Upon notification of a violation, the property owner, tenant, or authorized agent shall correct the violation. If not corrected, a fine of \$25 will be instituted; each day in violation will constitute a new violation. The City may further enforce this Chapter by filing an action in the appropriate court for an injunction to enforce provisions of this Chapter; to cause correction of any such violation; for assessment and recovery of a civil penalty for such violation; or to pursue any other appropriate civil remedy.

6.1107 Erection of more than one principal structure on a lot

In any district, more than one structure housing a permitted or permissible principle use may not be erected on a single lot.

(Source: Ordinance No. 48; 1996)

ARTICLE 12. Permits, Variances And Fees

6.1201 Schedule of fees, charges, and expense

The City Council shall establish by resolution a schedule of fees, charges, and expenses and a collection procedure for development permits, zoning amendments, conditional use permits, appeals, and other matters pertaining to this chapter. The schedule of fees shall be on file in the Office of the Reile's Acres City Auditor, and may be altered or amended by the City Council.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

(Source: Ordinance No. 48; 1996)

6.1202 Development permits required

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the administrative official pursuant to the ordinances of the City of Reile's Acres. No development permit shall be issued except in conformity with the provisions of this chapter and the flood plain management chapter.

(Source: Ordinance No. 48; 1996)

6.1203 Variances

Section 1. Statement of Intent. The provisions of a "Variance" are intended to grant a use wherein the change in zoning is not in the best interest of the City of Reile's Acres and where the restrictions imposed by the existing zoning regulations create an undo hardship in individual cases. A Variance is granted only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance.

Section 2. Application.

- A. The application for a Variance shall be in writing and shall be made by the owner of the property for which the Variance is sought. The application shall be signed by the owner of the property, shall include the concurring signatures of no less than three-fourths of the owners of property adjacent to the lot for which the Variance is sought, and shall be accompanied by an amount sufficient to cover the cost of processing the application.
- B. The application shall contain the proper and legal description of the property and shall contain drawings or word descriptions of the proposed variance use for which the _

permit is sought. The Designated Administrator may require additional information from the applicant if deemed necessary to decide the merits of the application.

Section 3. Issuance of Permits. The City Council shall find that the Variance:

- A. Will not affect the health or safety of persons working or residing in the neighborhood.
- B. Will not be detrimental to Public Welfare or injurious to property or improvements of the neighborhood.
- C. Shall comply with all other provisions of the law and shall comply with all ordinances.

In granting a Variance, the Council may designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the fore going requirements and continue to do so.

Section 4. Shall not be deemed to change the zoning. The zoning of the property prior to the Variance will remain unchanged. In the event the use of any property, as permitted in the Variance, is terminated for any reason, the Variance shall expire. The Variance granted in accordance with this section shall expire in one year unless the construction or use authorized by said Variance shall have commenced.

(Source: Ordinance No. 78; 2007)

ARTICLE 13. Extra-territorial subdivision authority

6.1301. Extra-territorial authority asserted – zoning

Section 1. Statement of intent.

The provisions of extraterritorial areas are intended to promote the orderly development of land adjacent to the City of Reile's Acres.

(Source: Ord. 48; 1996; Ord. 56, 1999)

Section 2. Requirements.

Any land added to the City of Reile's Acres extra-territorial zoning jurisdiction shall be immediately classified into one or more of the zoning districts. Any use not in conformance with Chapter 3 shall apply for a "Conditional Use Permit" or "Variance". Animals, other than household pets, may be kept, boarded, or raised in Single Family Residential Zones (R-1 and R-1A). The above exception requires approval through the Conditional Use Permit or Variance process. The Conditional Use Permit or Variance process will identify the species and number of animals allowed on the property. Accessory buildings exceeding the requirements of Section 3-0602 require a Conditional Use Permit or Variance.

(Source: Ordinance 48; 1996, Ordinance 56; 1999; revision by attorney)

Section 3. Ordinance No.3 of the City of Reile's Acres, North Dakota, creating a Planning Commission for the City of Reile's Acres, was amended to extend the application of the city's subdivision regulation to unincorporated territory located within one-half (½) mile of the city limits to the North, West, and South and within one-quarter (¼) mile of the city limits to the East excluding the Northwest Quarter (NW ¼) of Section Twenty Seven (27), Township One Hundred Forty (140) North, Range Forty Nine (49) West pursuant to N.D.C.C. 40-47-01.1. The specific areas included are the West Half (W ½) of the Southwest Quarter (SW ¼) of Section Fifteen (15), the South Half (S ½) of Section Sixteen (16), the West Half (W ½) of Section Twenty One (21), the West Half (W ½) of the West Half (W ½) of Section Twenty Two (22),

and the North Half (N ½) of Section Twenty Eight (28) all Township One Hundred Forty (140) North, Range Forty Nine (49) West, Cass County, North Dakota.

Section 4. Zoning Enactment for extra-territorial area.

The following described property located in Section Sixteen (16), Township One Hundred Forty (140) North, Range Forty Nine (49) West, Cass County, North Dakota, is hereby rezoned from A – Agricultural use to R-1 – Single Family Dwelling use:

The East One Thousand Two Hundred Ninety Eight (E 1,298) Feet of the Southeast Quarter (SE ¼) of Section Sixteen (16), Township One Hundred Forty (140) North, Range Forty Nine (49) West, Cass County, North Dakota.

The Following described property located in Township One Hundred Forty (140), Range Forty Nine (49) West, Cass County, North Dakota, is hereby Zoned A – Agricultural use:

The West Half (W ½) of the Southwest Quarter (SW ¼) of Section Fifteen (15), the South Half (S ½) of Section Sixteen (16) less the East One Thousand Two Hundred Ninety Eight (E 1,298) Feet of the Southeast Quarter (SE ¼), The West Half (W ½) of Section Twenty One (21), the West Half (W ½) of the West Half (W ½) of Section Twenty Two (22), and the North Half (N ½) of Section Twenty Eight (28).

Section 5. Zoning Enactment.

The following described property located in the City of Reile’s Acres in Section Twenty One (21), Township One Hundred Forty (140) North, Range Forty Nine (49) West, Cass County, North Dakota, is hereby rezoned from A – Agricultural use to R-1 – Single Family Dwelling use:

All of Reile’s Acres First Subdivision, all of Reile’s Acres Second Subdivision, all of Reile’s Acres Third Addition, all of Reile’s Acres Fourth Addition, Lots thirteen (13) through Eighteen (18) of Block Four (4) of Reile’s Acres Fifth Addition, and Outlots One (1) and Two (2) in the Southeast Quarter (SE ¼) of Section Twenty One (21).

The following described property located in the City of Reile’s Acres in Section Twenty One (21), Township One Hundred forty (140) North, Range Forty Nine (49) West, Cass County, North Dakota, is hereby zoned for A – Agricultural use:

All of Reile’s Acres Fifth Addition except Lots Thirteen (13) through Eighteen (18) of Block Four (4); and all unplanted property in the East Half (E ½) of Section Twenty One (21).

(Source: Ordinance No. 46; 1996; Ordinance No. 54; 1999)

6.1302. Extra-territorial authority asserted – zoning

Section 1. Enactment. The following described property located in Section 21, Township 140 North, Range 49 West, Cass County, North Dakota, is hereby rezoned from Agricultural to Single Family Dwelling;

That part of the Southeast Quarter of Section Twenty One (21), Township One Hundred Forty (140) North, Range Forty Nine (49) West, in the City of Reile’s Acres, Cass County, North Dakota, described as follows:

Beginning at the Southwest Corner of Lot 10 Block 4, Reile’s Acres Third Addition; thence West along the North Line of 35th Avenue for a distance of Two Hundred Thirty (230) feet; thence East parallel to the

North Line of 35th Avenues for the distance of Seven Hundred Seventy Eight and Three Hundredths (778.03) feet to the West line of Reile's Acres Third addition; thence South along the West line of Reile's Acres Third Addition for a distance of Two Hundred Thirty (230) feet, to the point of beginning. This area is also known as Block 5 of Reile's Acres Fourth Addition. Said tract contains 4.1 acres, more or less.

(Source: Ordinance No. 41; 1994)

6.1303. Extra-territorial authority asserted – zoning

Section 1. Enactment. The following described property located in Section 21, Township 140 North, Range 49 West, Cass County, North Dakota, is hereby rezoned from Agricultural to Single Family Dwelling:

That part of the Southeast Quarter of Section Twenty One (21), Township One Hundred Forty (140) North, Range Forty Nine (49) West, in the City of Reile's Acres, Cass County North Dakota, described as follows:

Beginning at the Southwest Corner of Lot 10 Block 4, Reile's Acres Third Addition; thence West along the North line of 35th Avenue for a distance of Seven Hundred Seventy Eight and Three Hundreds (778.03) feet; then North perpendicular to the North line of 35th Avenue for a distance of Two hundred Thirty (230) feet; thence East parallel to the North line of 35th Avenue for a distance of Seven Hundred Seventy Eight and Three Hundredths (778.03) feet to the West line of Reile's Acres Third addition; thence South along the West line of Reile's Acres Third Addition for a distance of Two Hundred Thirty (230) feet, to the point of beginning. This area is also known as Block 1, 2, and 3 of the Reile's acres Fourth Addition. Said tract contains 7.8 acres, more or less.

(Source: Ordinance No. 47; 1996)

6.1304. Extra-territorial authority asserted – zoning

Section 1. Enactment. The following described property located in Section Twenty One (21), Township One hundred Forty (140) North, Range Forty Nine (49) West, Cass County, North Dakota, is hereby rezoned from A – Agricultural use to R-1A – Small Lot Single Family Dwelling use:

Beginning at the Northwest corner of lot Eighteen (18), Block Four (4), Reile's Acres fifth Addition; thence S 02°43'14" E (S 00°00'00" W – Reile's Acres Fifth Addition) along the West Line of Lots Eighteen (18), Seventeen (17), Sixteen (16), Fifteen (15), Fourteen (14), and Thirteen (13) of said Block (4) for a distance of One Thousand Two Hundred Five and Thirty Six Hundredths (1,205.36) Feet to the Southeast Corner of said Lot Thirteen (13), said corner lying on the North Line of Block Five (5) and the Westerly extension thereof for a distance of One Thousand Eight Hundred Forty One and Thirty Five Hundredths (1,841.35) Feet to a point on the West Line of the East Half (E. ½) of said Section Twenty One (21); thence N 02°29'41" W along the West Line of said East Half (E. ½) of said Section Twenty One (21); thence N 02°29'41" W along the West Line of said East Half (E. ½) for a distance of One Thousand Two Hundred Five and Thirty Seven Hundredths (1,205.37) Feet to a point on the Westerly extension of the North Line of lot Eighteen (18), Block Four (4), Reile's Acres Fifth Addition; thence N 87°16'46" E along the Westerly extension of the North Line of said Lot Eighteen (18) for a distance of One Thousand Eight Hundred Thirty Six and Sixty Hundredths (1836.60) Feet to the Northwest Corner of said Lot Eighteen (18), the point of beginning.

(Source: Ordinance NO. 64; 2002)

6.1305. Extra-territorial authority asserted – zoning

Section 1. Enactment. The following described property located in Section Twenty One (21), Township One Hundred Forty (140) North, Range Forty Nine (49) West, Cass County, North Dakota, is hereby rezoned from A- Agricultural use to C – Limited Commercial use:

Beginning at the Northeast Corner of the Northeast Quarter (N.E. ¼) of Section Twenty One (21), thence S 02°43'14" E along the East Line of said Section Twenty One (21) for a distance of Eight Hundred Five (805.00) Feet; thence S 87°16'46" W for a distance of Eight Hundred Five (805.00) Feet; thence N 02°43'14" W parallel to the East Line of said Section Twenty one (21) for a distance of Two Hundred Twenty and Seventy Three Hundredths (220.73) Feet to a point on the Easterly extension of the South Line of Block Six (6) of Reile's Acres Fifth Addition; thence S 87°19'55" W along the Easterly extension of the South Line of said Block Six (6) parallel to the North line of said Section Twenty One (21) for a distance of Four Hundred Sixty Nine and Twenty Seven hundredths (469.27) feet to the Southeast Corner of said Block Six (6); thence N 02°40'05" W along the East of said block Six (6) and the northerly extension thereof for a distance of Five Hundred Eighty Five (585.00) Feet to a point on the North Line of said Section Twenty One (21); thence N 87°19'55" E along the North Line of said Section Twenty One (21) for a distance of One Thousand Two Hundred Seventy Three and Seventy Three Hundredths (1,273.73) Feet to the Northeast Corner of said Section Twenty One (21), the point of beginning.

(Source: Ordinance No. 66; 2002)

ARTICLE 14. Flood Plain Management

6.1401 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 of Reiles Acre, North Dakota does ordain as follows:

6.1402 FINDINGS OF FACT

(1) The flood hazard areas of the City of Reiles Acres 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.

6.1403 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.

6.1404 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.

SECTION 2.0

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 Council's and City Attorney'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.

SECTION 3.0

GENERAL PROVISIONS

6.1405 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of The City Reile's Acres.
(Local unit)

6.1406 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 Cass County, ND" dated 1/15/2014 with an accompanying City of Reiles Acres Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the City Building at 4635 35th Avenue North, Reiles Acres, ND 58102.

6.1407 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.

6.1408 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.

6.1409 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.

6.1410 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 Reiles Acres, any officer or employee thereof, consultant thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION 4.0

ADMINISTRATION

6.1411 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 Building Inspector, 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 flood proofed;
- (3) Certification by a registered professional engineer or architect that the flood proofing methods for any residential structure meets the flood proofing criteria in Section 5.2-1; that any non-residential structure meet the flood proofing 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.

6.1412 DESIGNATION OF THE BUILDING INSPECTOR.

The Building Inspector is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

6.1413 DUTIES AND RESPONSIBILITIES OF THE BUILDING INSPECTOR.

Duties of the Building Inspector shall include, but not be limited to:

- 3-1 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.

3-2 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 Building Inspector 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.

3-3 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 flood proofed structures:
 - (i) Obtain and record the actual elevation (in relation to mean sea level) to which the structure has been flood proofed;
 - (ii) Maintain the flood proofing certifications required in Section 4.1(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

3-4 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.

3-5 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.

6.1414 VARIANCE PROCEDURE

4-1 Appeal Board

(1) The City Council as established by The City of Reiles Acres shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(2) The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this ordinance.

(3) Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision to the Cass County Court, as provided in NDCC 40-47-11, 11-33-12, or 58-03-14.

(4) In passing upon such applications, the City Council 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 City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(7) The Building Inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

4-2 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.

SECTION 5.0

PROVISIONS FOR FLOOD HAZARD REDUCTION

6.1415 GENERAL STANDARDS

In all special flood hazard areas the following standards are required:

5.1-1 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.

5.1-2 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.

5.1-3 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 systems 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.

5.1-4 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).

5.2 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:

5.2-1 Residential Construction

New construction and substantial improvement of any residential structure shall:

- (1) Conform to structural and technical provisions set forth in CFR 60.6 B approved by the Federal Emergency Management Agency and adopted by The City of Reiles Acres.
- (2) Be designed so that the lowest foundation opening is at least one foot above the base flood elevation. Any basement area, together with attendant utilities and sanitary facilities, below that level shall be designed so that the structure is watertight without human intervention (i.e., the base or sill of all external openings such as windows and doors must be one foot above the 100-year base flood elevation). Basement walls shall be built with the capability to resist hydrostatic and hydrodynamic loads and the effects of buoyancy resulting from the 100-year frequency flood and shall be designed so that minimal structural damage will occur if this design is exceeded.
- (3) Basements constructed in accordance with these regulations shall not be used for sleeping purposes.
- (4) Be certified by a registered professional engineer that the flood proofing measures used in the structure satisfy the adopted-community flood proofing standards.
- (5) The Building Inspector shall verify that the structure has been built in accordance with the flood proofing code approved by the Federal Emergency Management Agency.

5.2-2 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 flood proofed 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).

5.2-3 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.

5.3 FLOODWAYS

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.

(3) 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.

5.4 GRADING ADJACENT TO BUILDING BOTH RESIDENTIAL AND COMMERCIAL FLOODPLAIN.

(1) All fill 15' within from buildings shall be at or above the FEMA 100yr flood elevation.

SECTION 6.0

6.1416 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 City of Reiles Acres from taking such other lawful action as is necessary to prevent or remedy any violation.

CHAPTER SEVEN

WATER AND SEWER

ARTICLE 1 - Utility Established

- 7.0101 Reserved for future use
- 7.0102 Reserved for future use
- 7.0103 Scope of Utility
- 7.0104 Service Charges - Use of
- 7.0105 Policy on Improvements - Extensions
- 7.0106 Utility Fund - Separate Accounts
- 7.0107 Provisions for Financing Capital Improvements
- 7.0108 Agreements with Bond and Warrant Purchasers

ARTICLE 2 - Water Service

- 7.0201 Water System
- 7.0202 Superintendent of City Water and Sewer Department
- 7.0203 Same: Reports
- 7.0204 Application for Water Service and Service Connection Charge
- 7.0205 Water Service - To Property Not Previously Assessed
- 7.0206 Subsequent Connection to Premises
- 7.0207 Separate Connections for each Premises - Exception
- 7.0208 Service Outside City Limits - Prohibited - Exception
- 7.0209 Service in Unplatted Areas
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CHAPTER SEVEN

WATER AND SEWER

7.0104 Service Charges - Use of

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

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

7.0105 Policy on Improvements - Extensions

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

1. Where water mains not exceeding six inches or sanitary sewer mains not exceeding eight inches in diameter are installed adjacent to residential properties, and where water mains not exceeding eight inches or sewer mains not exceeding ten inches in diameter are installed adjacent to commercial properties, the total cost thereof shall be assessed against the properties abutting on such improvements, in sums proportionate to and not exceeding the total benefits determined to be derived therefrom by the respective properties. Water and sewer mains of the dimensions above described are referred to herein as "lateral" mains and other mains are referred to as "trunk" mains.

2. Where a trunk main is installed, the governing body upon advice of the city engineer shall estimate the probable cost of construction of a lateral main at the same time and place and such estimated cost shall be assessed against the properties abutting on such main and in the manner above provided.

3. Twenty percent (20%) of the cost of any sanitary sewer in excess of the estimated cost of a lateral sewer at the same time and place shall be assessed against all properties determined by the governing body to require the immediate construction of such main as a trunk sewer, including properties abutting thereon and properties served or capable of being served by lateral sewers connected thereto, in amounts proportionate to and not exceeding the benefits determined to be derived by said respective properties from such trunk sewer.

4. The total cost of storm sewers shall be assessed against properties within the area determined to be benefited thereby, in amounts proportionate to and not exceeding the benefits determined to be derived therefrom by the respective properties.

5. Where a portion of the benefits of any of the foregoing improvements is deemed to accrue primarily to the City at large, a portion not exceeding twenty percent (20%) of the cost thereof, as determined by the governing body, may be paid by the levy of ad valorem taxes upon all property within the City over the same period as the levies of assessments for such improvements, or any portion or all of such cost may be paid out of current funds duly provided in the budget, or from the proceeds of general obligation bonds duly authorized by the electors.

6. Such portion of the cost of any improvement, extension or addition to the utility as is not paid by special assessments and taxes levied and actually collected in respect thereof shall be paid from the net revenues of the utility.

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

7.0106 Utility Fund - Separate Accounts

All moneys received by the City in respect of the services, facilities, products and by-products furnished and made available by the City Water and Sewer Department, except collections of special assessments and taxes appropriated to improvement district funds and moneys borrowed for capital improvements, and all money, receipt and returns received from any investments of such earnings, shall be paid into the treasure of the City and kept in a special fund which shall be permanently maintained on the

books of the City, separate and distinct from other funds, and designated as the Water and Sewer Utility Fund. In the records of this fund, all receipts and disbursements of money on account of or in connection with the utility shall be entered and reflected; but the moneys from time to time on hand therein shall always constitute public municipal funds and shall be deposited and their safekeeping secured like other City funds. Separate accounts within the Water and Sewer Utility Fund shall be permanently maintained for the purpose of segregating the revenues required to meet the several expenses and obligations of the utility, as provided below, and such revenues shall be administered and accounted for as follows:

1. Operation and Maintenance Account. There shall be credited at least once in each calendar month to the Operation and Maintenance Account of said fund, as a first lien and charge on the gross revenues of the utility such sum as shall be needed, over and above any credit balance then held therein, to pay all claims due which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of approximately one month, and to maintain a reasonable reserve for contingencies. Moneys in said account shall be used only to pay expenses of the foregoing type, and not for repairs or replacements or for capital improvements properly chargeable to replacement and depreciation reserves or surplus funds.

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

3. Revenue Bond Account. The net revenues of the utility are herein defined as the aggregate of all sums on hand in the Water and Sewer Utility Fund from time to time in excess of the current requirements defined in (1) and (2) above. The entirety of the said net revenues shall be credited each month to the Revenue Bond Account of the Water and Sewer Fund until there shall have been credited within said account, and thereafter so much of the net revenues as shall be necessary to maintain at all times, a reserve in an amount at least equal to the sum of the principal and interest payments due within each next succeeding twelve-month period upon all revenue bonds of the City heretofore or hereafter issued and made payable from said accounts. After this reserve has been created, there shall continue to be credited out of the net revenues to the Revenue Bond Account each month, over and above sums required to maintain such reserve, an amount not less than one-twelfth (1/12) of the sum of the principal and interest to become due on all such revenue bonds within the then next succeeding twelve months. Moneys in said account shall be used only for the payment of principal and interest as it becomes due on said revenue bonds, and the reserve shall be used for such purpose only when other moneys in the account are insufficient. All revenue bonds heretofore and hereafter issued and made payable from said account, subject to the limitations upon such issuance contained in Section (6) hereof, shall constitute a first lien and charge on the net revenues of said utility without preference or priority of one bond over any other. However, if at any time the moneys in the Revenue Bond Account should be insufficient to make all payments of principal and interest due on such revenue bonds, and cannot be made sufficient by transfer of moneys from the other accounts described below, the moneys available shall be first used to pay interest then accrued on all bonds payable from said account, and any excess moneys available shall be used to pay matured principal of such bonds in order of their maturity dates, provided that moneys available for payment of bonds maturing on the same date shall be prorated equally among such bonds.

4. Improvement Warrant Account. There shall also be maintained in said fund an Improvement Warrant Account, for the purpose of segregating net revenues required for the payment of any portion of the cost of improvements hereafter instituted, for which such revenues have been pledged in

accordance with the provisions of Chapter 40-22 of the North Dakota Century Code. There shall be transferred from said account as required, to the fund of each improvement district for which such pledge has been made, sums sufficient, together with tax and assessment collections held in such funds, to pay when due the principal and interest on all improvement warrants drawn upon such funds for the financing of such improvements. Moneys sufficient for the requirements of said improvement district funds shall be credited and paid into the Improvement Warrant Account out of the net revenues remaining from time to time after provision for the current requirements of the Revenue Bond Account, and the lien and charge on said net revenues in favor improvement warrants for the payment of which such pledges have been made shall be subordinate only to the lien and charge on said net revenues in favor of revenue bonds payable from the Revenue Bond Account. In the event that moneys in the Improvement Warrant Account shall be insufficient for the making of all transfers required to be made to the several improvement district funds to which such pledges have been made, and cannot be made sufficient by the transfer of funds from the remaining accounts described below, the available moneys shall be apportioned first to the several improvement district funds in sums sufficient to pay interest then accrued on all warrants drawn on such district funds, and any remainder shall be applied in payment of matured principal of such warrants in order of the maturity dates thereof. As among warrants maturing on the same date, such available moneys shall be applied to the warrants of the several issues in proportion to the matured principal amount thereof for the payment of which taxes and assessments in the respective improvement funds are insufficient.

5. Replacement and Depreciation Account. There shall be maintained a Replacement and Depreciation Account, into which there shall be credited and paid as received, except as otherwise stated below, all net revenues in excess of the current requirements of the other accounts above described. In said account there shall be maintained such balances as the governing body shall from time to time determine to constitute an adequate reserve for depreciation and replacement of the utility, which reserve may be used to redeem prior to maturity obligations payable from the net revenues as and when the same become pre-payable according to their terms, or to replace worn out or obsolete properties of the utility, or to make extensions, enlargements or improvements thereto. Any moneys in said account determined to be surplus to the immediate requirements therefore may be invested or may be transferred to other City funds in the discretion of the Board, in the manner and subject to the limitations set forth in Section 40-33-12 of the North Dakota Century Code; and any acts amendatory thereof or supplemental thereto.

6. Moneys on Hand. The moneys on hand in any of the accounts of the Water and Sewer Utility Fund shall at all times be available and shall be used to the extent necessary to restore any deficiency in the funds on hand in any of the preceding accounts, in the order listed above, for the fulfillment of the requirements of such preceding accounts as herein defined.

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

8.

7.0107 Provisions for Financing Capital Improvements

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

1. For the purpose of this section, whenever the net revenues of the utility hereinabove appropriated to the Improvement Warrant Account are pledged to pay a portion of the cost of any improvement to be financed by improvement warrants, such warrants and the interest accruing thereon shall be deemed to be payable from said net revenues in the same proportion as that part of the cost payable from said net revenues bears to the principal amount of such warrants. The portion of costs payable from net revenues shall be deemed equal to the principal amount of the warrants less the principal amount of the taxes and assessments agreed to be levied for the payment thereof.

2. Except as provided in parts (3) and (4) below, no obligations shall be issued and made payable from the Revenue Bond Account or the Improvement Warrant Account at any time unless the net revenues of the utility, as defined in Section 7.0106 (3) hereof, received during the then next preceding fiscal year, shall have been in an aggregate amount at least equal to 125% of the average annual principal and interest payments due on all bonds payable from the Revenue Bond Account which are then outstanding or then to be issued, plus such percentage of the average of the annual principal and interest payments due on each issue of improvement warrants then outstanding or then to be issued as shall be payable from said net revenues, which averages shall be computed on the basis of the principal and interest payments due in the fiscal years of the then remaining term of all such revenue bonds and improvement warrants then outstanding. For the purpose of such computation, whenever rates for water and sewerage service have been changed in the course of any fiscal year, the net revenues for such year shall be deemed to be those which would have been received if such amended rates had been in effect during the entirety of such year, based upon the actual quantities of service furnished to each class of customers and the actual expenses of the utility during such year; provided that in no case shall the net revenues so computed be deemed to exceed 125% of the net revenues actually received during such year.

3. Refunding revenue bonds may be issued for the purpose of prepaying and refunding bonds payable from the Revenue Bond Account when and as they become pre-payable according to their terms, in the manner and to the extent permitted by law, provided that such refunding revenue bonds shall be subject to the requirements set forth in part (2) hereof, as applied to the past net revenues and future principal and interest requirements as of the date of the issuance of such refunding revenue bonds. However, the City shall and does hereby also reserve the right and privilege of issuing refunding revenue bonds, when permitted by law, for the maturities of any bonds payable from the Revenue Bond Account which have matured and for the payment of which the moneys in the Revenue Bond Account are insufficient, and cannot be made sufficient by transfer of moneys from other accounts, and such refunding revenue bonds shall be payable from the Revenue Bond Account on a parity as to interest with all then outstanding bonds payable therefrom, but the maturities of such refunding revenue bonds shall be subsequent to the maturities of all such outstanding bonds. Nothing herein shall be deemed to require the holder of any revenue bond to accept a refunding revenue bond in exchange therefore.

4. The City also reserves the right and privilege of issuing refunding improvement warrants in the manner and to the extent provided in Chapter 40-27 of the North Dakota Century Code and acts

amendatory thereof and supplemental thereto. The lien and charge of such refunding warrants on the net revenues appropriated to the Improvement Warrant Account shall be the same as that in favor of the improvement warrants refunded thereby; provided that for the purpose of the computations directed to be made in this section, the maturities and the rate or rates of interest payable on such refunding warrants shall be substituted for the maturities and interest rates of the improvement warrants refunded thereby.

5. Nothing herein shall be deemed to affect the obligation of the City, under the laws of the State of North Dakota, to levy ad valorem taxes upon all taxable property within its corporate limits for the purpose of paying a deficiency, if any, in the fund of any improvement district, at the time of the maturity of the last warrant drawn thereon, or at such earlier time as may be hereafter directed by such laws; provided that it shall be the policy of the City that the amounts of any deficiency tax levies so made shall be restored to the general funds of the City out of any surplus net revenues thereafter received, over and above the requirements of the several accounts of the Water and Sewer Utility Fund as stated in Section 7.0106 hereof.

6. Except as hereinbefore authorized, no obligation of any kind shall be issued and made payable from said net revenues unless the lien thereof is expressly made subordinate and junior to the lien and charge on said net revenues in favor of all revenue bonds and improvement warrants payable from the Revenue Bond Account and the Improvement Warrant Account.

7.0108 Agreements with Bond and Warrant Purchasers

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

1. It will complete all improvements financed by the issuance of such obligations with due diligence and with the greatest economy consistent with good workmanship and efficient results, and will do so without creating or permitting the creation of any liens or encumbrances on said utility or on the revenues thereof other than the liens and charges of said revenues expressly authorized in this article.

2. As long as any obligations payable from said accounts are outstanding, it will continue to own and operate said utility as a municipal utility, free from all competitions as to the services thereby provided and in good and efficient operating condition.

3. It will at all times maintain a schedule of rates, charges and rentals for all services, facilities, commodities and benefits furnished by said utility and will impose and collect the same in amounts at least sufficient to make the minimum payments into the respective accounts of the Water and Sewer Utility Fund as specified in Section 7.0106 hereof, and will revise such schedules in such manner and as often as needed to perform this covenant.

4. Under each such schedule, the City shall be obligated to pay and will pay from its other funds to the Water and Sewer Utility Fund a fair and equitable amount for any and all services, facilities, commodities and benefits furnished to the City or any of its departments by the utility.

5. It will at all times maintain books of account adequate to show all receipts and disbursements of the City respecting the utility, and application of such receipts to the purposes of the several accounts described in Section 7.0106 hereof, which books of account shall be open to inspection by the holder of any obligation payable from the Revenue Bond Account or the Improvement Warrant Account at any reasonable time. The City will furnish a certified transcript therefrom of any information which any such bond or warrant holder may request, upon payment of a reasonable fee therefore.

6. It will cause the annual financial statement of the City required by the provisions of Section 40-16-05 of the North Dakota Century Code to include a statement as to the financial condition and the receipts and disbursements of the Water and Sewer Utility Fund and of its several accounts during each fiscal year, and will furnish a copy of such statement to the original purchaser of each issue of bonds or warrants upon request.

7. Upon written demand of the holder of twenty percent (20%) or more of the bonds or warrants of any issue payable from the Revenue Bond Account or Improvement Warrant Account and then outstanding, it will cause an audit of the books of account of the utility to be made by a certified public accountant satisfactory to the holders of such obligations, the cost thereof to be paid as an operating expense of the utility and will furnish a copy of the report of any such audit to such party as shall be designated in such demand.

8. It will at all times keep the properties of said utility insured in reasonable amounts against loss or damage by fire, tornado and other risks for which similar properties are customarily insured by prudent owners, and will carry adequate public liability insurance, insuring against any claim of personal injury of property damage which is or may become a charge against the revenues of the utility. The City will also cause all persons handling funds of the utility to be bonded in suitable amounts for the protection of the City and the holders of obligations of the utility, and the expense of all such insurance and bonds shall be accounted for as an operating cost of the utility. The City will use the proceeds of any such insurance and bonds to restore the loss or damage compensated thereby.

9. The City and its governing body and each and all of its officers will punctually perform all duties with reference to said utility and the revenues thereof and the obligations issued hereunder which are imposed by the ordinances and resolutions of the City in force on the date upon which any such obligations are issued. All provisions of the Constitution and laws and of such ordinances and resolutions which are provide security for the holders of bonds issued hereunder are acknowledged to be a part of the City's contract with the holders of such obligations; provided that nothing herein shall be deemed to preclude the City from modifying the policies set forth in Section 7.0105 hereof with reference to any improvements constructed and financed after the effective date of such modification.

10. The holders of twenty percent (20%) or more in principal amount of each issue of bonds or warrants payable from the Revenue Bond Account or the Improvement Warrant Account and at the time

outstanding shall be privileged, and are hereby empowered, to institute and maintain, on behalf of the holders of all outstanding obligations of the same issue, any suit or proceeding at law or in equity for the protection and enforcement of any covenant, agreement or stipulation herein provided to be performed or observed by the City or its governing body or any of its officers, whether or not any such obligations are then in default as to principal and interest. Each and all of the rights and remedies provided by Sections 40-35-15 and 40-35-19 of the North Dakota Century Code are hereby acknowledged to be available to the holders of such obligations.

ARTICLE 2 - Water Service

7.0201 Water System

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

7.0202 Superintendent of City Water and Sewer Department

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

7.0203 Same: Reports

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

7.0204 Application for Water Service and Service Connection Charge

Any party desiring water and sewer service from said utility for premises not heretofore connected with the system, and not subject to the provisions of Section 7.0205 set forth below, shall apply for a connection on a form provided by the City. Such application shall state an exact description of the premises to be served, and the uses, both general and special, to which the water is to be put, the nature of sewage to be discharged, and the estimated amount of water to be used for a quarter-annual period. Such application shall be filed with the city auditor, and the applicant shall thereupon pay to the city auditor, as a connection charge, the sum then fixed by resolution of the city council for a residential building, commercial building or multiple dwelling.

7.0205 Water Service - To Property Not Previously Assessed

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

7.0206 Subsequent Connection to Premises

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

7.0207 Separate Connections for each Premise - Exception

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

7.0208 Service Outside City Limits - Prohibited - Exception

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

(Source: North Dakota Century Code Section 40-33-13, 14)

7.0209 Service in Unplatted Areas

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

7.0210 Water Service - Construction of - Maintenance of by Owner

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

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

7.0211 Water Meters - Checked - Fees

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

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

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

7.0213 Defective Service - Consumers Duty to Report

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

7.0214 Users Consent to Regulations

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

7.0215 Regulations Governing Service

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

1. Shutting Off Water - Who Authorized. No person except an authorized employee of the water department shall shut off or turn off the water at the curb cock to any premises without first obtaining permission from the water department.

2. City Reserves Right to Shut Off Water - Notice. In the case of making repairs or constructing new work, the City reserves the right to shut off the water at once and keep the same shut off as long as may be necessary to accomplish such purposes. Service may also be discontinued for nonpayment of bills or for disregard of rules and regulations affecting the service.

3. Non-liability of City for Deficient Supply or Quality of Water. It is expressly provided that the City shall in no event be or become liable to any consumer of water for a deficiency in the supply

of water or the quality thereof, whether by shutting off the same to make repairs or to construct new work or for any other cause whatsoever.

4. Shutting Off Water - Charge for. The water department shall make a charge to be set by resolution of the city council for each shutting off or turning on services.

5. Entrance and Access to Premises by Waterworks Employees. Authorized employees of the water and sewer department shall have free access to any premises supplied with water, at proper times, to inspect and ascertain the condition of the meters and fixtures, or for reading meters, and no owner or occupant shall refuse such employees such access. The water department shall have the right to enter any premises and remove the meter for the purpose of examination and test after first notifying the owner or occupant, and to shut off the water to premises where free access is prevented.

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

7.0216 Connection to be supervised by City Employees

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

7.0217 Service Pipes Specifications

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

7.0218 Curb Cock Specifications

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

meter so that the water can be shut off and the house plumbing entirely drained. There shall be another such stop and waste cock in the pipe on the house side of the meter.

7.0219 Check Valves Required When Necessary

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

7.0220 Use of Water During Fire - Unlawful

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

7.0221 Waterworks Customers May Lay Larger Pipes with Hydrants - When

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

7.0222 Rates and Charges

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

7.0223 Rates and Charges - Liability for

The owner or owners of all real property in the City furnished water or sewer service or service line repairs shall be responsible for the payment of any and all such charges regardless of who the occupant or tenant may be. Owners of premises where water or sewer service is supplied shall notify the water or

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

7.0224 Duty to Report to Auditor

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

7.0225 Excavators

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

7.0226 Restriction of Use of Water

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

ARTICLE 3 - Regulation of Sewer Use

7.0301 Purpose

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

7.0302 Definitions

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

1. “BOD” (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.

2. “Building Drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

3. “Building Sewer” shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.

4. “Combined Sewer” shall mean a sewer intended to receive both wastewater and storm or surface water.

5. “Easement” shall mean an acquired legal right for the specific use of land owned by others.

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

7. “Garbage” shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

8. “Industrial Wastes” shall mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

9. “Natural Outlet” shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse pond, ditch, lake or other body of surface or groundwater.

10. “May” is permissive (see “shall,” Sec. 18).

11. "Person" shall mean any individual, firm, company, association, society, corporation or group.

12. "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has pH value of 7 and a hydrogen-ion concentration of 10^{-7} .

13. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than $\frac{1}{2}$ inch (1.27 centimeters) in any dimension.

14. "Public Sewer" shall mean a common sewer controlled by a governmental agency or public utility.

15. "Sanitary Sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

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

17. "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.

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

19. "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

20. "Storm Drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

21. "Superintendent" shall mean the superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the City or an authorized deputy, agent or representative.

22. "Suspended Solids" shall mean total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilter able residue.

23. "Unpolluted Water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

24. "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

25. "Wastewater Facilities" shall mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

26. "Wastewater Treatment Works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

27. "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

28. "Hearing Board" shall mean that board appointed according to the provisions of Section 7.0309.

7.0303 Use of Public Sewers Required

1. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City any human or animal excrement, garbage or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

4. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City, and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided that said public sewer is within 200 feet (61 meters) according to the North Dakota plumbing code of the property line.

As of January 1, 2011, the first, second, third, fourth and fifth additions have septic systems involving septic tanks and public sewer lines. In the first, second and third additions the homeowner owns the septic tank located upon their private property, and if permitted by the homeowner, the City of Reile's Acres shall periodically pump-out the septic tank as part of the service charges. The City of Reile's Acres will assume the cost of replacement of septic tanks in the first, second, and third additions in the event of failure if requested by the homeowner. As to all other sewer lines, the City of Reile's Acres shall accept responsibility for repairs and replacement of the septic tank and the common lines. The homeowner shall be solely responsible for the installation and maintenance of the sewer line from the homeowner's residence to the city-owned septic tank or sewer line.

7.0304 When Private Sewage Disposal Permitted

1. Where a public sanitary or combined sewer is not available under the provisions of Section 7.0303 (4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

2. Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the superintendent. A permit and inspection fee to be set by resolution of the city council shall be paid to the City at the time the application is filed.

3. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the superintendent.

4. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations and/or regulations of the North Dakota State Department of Health. No permit shall be issued for any private wastewater disposal system not meeting these conditions. No septic tank or cesspool shall be permitted to discharge to any natural outlet or to the ground surface.

5. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 7.0303 (4), a direct connection shall be made to the public sewer within sixty (60) days in compliance with this ordinance, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

6. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. All sludge or solids, to be disposed of from a septic tank, cesspool or other individual method of disposal shall be disposed of by a licensed septic tank pumper in accordance with Section 23-19-01 of the North Dakota Century Code.

7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the local health officer.

7.0305 Building Sewers and Connections

1. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

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

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

4. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

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

6. The size, slope alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions, specifications of the state building and plumbing codes shall apply.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer, or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the superintendent and the North Dakota State Department of Health.

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

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

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

7.0306 Use of Public Sewers

1. No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any building drain or sewer which in turn is connected directly or indirectly to the sanitary sewer unless such connection is approved by the superintendent and the North Dakota State Department of Health.

2. Storm water other than that exempted under Section 7.0306 (1) and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent and the North Dakota State Department of Health.

3. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

a. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

b. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

c. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.

d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and flashings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

4. The following described substances, materials, waters or waste shall be limited in discharges to city systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, and public property or constitute a nuisance. The superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the superintendent are as follows:

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

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

- c. Wastewater from industrial plants containing floatable oils, fat or grease.
- d. Any garbage that has not been properly shredded (see Section 7.0302 (13)). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- e. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the superintendent for such materials.
- f. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent.
- g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
- h. Quantities of flow, concentrations or both which constitute a “slug” as defined herein.
- i. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- j. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 7.0306 (4), and which in the judgment of the superintendent, may have a

deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

- a. Reject the wastes;
- b. Require pretreatment to an acceptable condition for discharge to the public sewers;
- c. Require control over the quantities and rates of discharge; and/or
- d. Require payment to cover the added costs of handling and treating the wastes not covered by sewer charges under the provisions of 7.0306 (11).

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

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

7. Where pretreatment or flow-equalizing facilities are provided or required by any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

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

9. The superintendent may require a use of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:

- a. Wastewaters discharge peak rate and volume over a specified time period.
- b. Chemical analyses of wastewaters.
- c. Information on raw materials, processes and products affecting wastewater volume and quality.
- d. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
- e. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
- f. Details of wastewater pretreatment facilities.
- g. Details of systems to prevent and control the losses of materials through spills to the City sewer.

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

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

7.0307 Damage to Sewer Works Prohibited

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

7.0308 Powers and Authority of Inspectors

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

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

3. While performing the necessary work on private properties referred to in Section 7.0308 (1), above, the superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except such as may be caused by negligence or failure of the company to maintain safe conditions as required in Section 7.0306 (8).

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

7.0309 Hearing Board

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

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

7.0310 Penalties

1. Any person found to be violating any provision of this ordinance except Section 7.0307 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Any person who shall continue any violation beyond the time limit provided for in Section 7.0310 (1), shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one thousand dollars (\$1,000.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

7.0311 Validity

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

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

ARTICLE 4 - Sewer Surcharge

7.0401 Purpose

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

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

7.0402 Determining the Total Annual Cost of Operation and Maintenance

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

7.0403 Determining Each User's Wastewater Contribution Percentage

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

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

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

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

7.0405 Surcharge Rate Schedule for Above Normal Volume of Wastes

Residential users are considered to be one class of user and are hereby levied a charge to be set by resolution of the city council for each month. Non-residential users with flows no greater than the average residential user's flow of 4,000 gallons per month and with BOD and TSS no greater than the average residential user's strength will be levied the same charge each month as the average residential user.

Non-residential users with volumes greater than the average residential user will pay an additional charge of 60 cents per 1,000 gallons per month for all flows greater than the average residential user's flow of 4,000 gallons per month.

7.0406 Surcharge Rate Schedule for Above Normal Strength Wastes

The City of Reile's Acres, or its city engineer, will assess a surcharge rate for all non-residential users discharging waste with BOD and TSS strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the cost of treating their above-normal strength wastes. Normal strength wastes are considered to be 150 mg/1 BOD and 100mg/1. The surcharge rate structure for such above-normal strength waste discharges is attached (Appendix A).

(Source: Ordinance NO. 17; 1985)

7.0407 Determining Each User's Wastewater Service Charge

Each non-residential user's wastewater treatment cost contributions as determined in Section 11-0303 and Sections 11-0304 shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of users and an equitable service charge may be determined for each user based on an estimate of the total wastewater contribution of this class of user. The governing body may classify industrial, commercial and other non-residential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume, total suspended solids and BOD. Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule (Appendix B).

(Source: Ordinance NO. 17; 1985)

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

The city shall submit an annual statement to the user for the user's annual wastewater service charge or an appropriately prorated amount of the user's annual wastewater service charge may be included with the periodic city utility billing. The city shall add a penalty, established by council resolution, of a

fixed percent per month if the payment is not received by the city within 30 days. Should any user fail to pay the user wastewater service charge and penalty within three months of the due date, the city may stop the wastewater service to the property.

(Source: Ordinance NO. 17; 1985)

7.0409 Review of Each User's Wastewater Service Charge

The city shall review the total annual cost of operation and maintenance as well as each user's Wastewater Contribution Percentage not less often than every two years 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 treatment works. The city shall apply excess revenues collected from a class of users to the cost of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. If a significant user, such as an industry, has complete in-plant modifications which would change that user's Wastewater Contribution Percentage, 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 Percentage is to be changed. The city shall notify the user of its findings as soon as possible.

(Source: Ordinance NO. 17; 1985)

7.0410 Wastes Prohibited from Being Discharged to the Wastewater System

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

7.0411 PURPOSE

The purpose of this ordinance 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 system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and TSS), volume and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure proportional distribution of operation and maintenance costs to each user (or user class).

(Source: Ordinance NO. 17; 1985)

7.0412 DETERMINING THE TOTAL ANNUAL COST OF OPERATION AND MAINTENANCE

The City of Reile's Acres, or its city engineer, shall determine the total annual cost 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.

(Source: Ordinance NO. 17; 1985)

7.0413 DETERMINING EACH USER'S WASTEWATER CONTRIBUTION PERCENTAGE

The City of Reile's Acres, or its city engineer, shall determine for each user or user class the average daily volume of wastewater discharge to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system to determine such user's Volume Contribution Percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow. The city of Reile's Acres, or its city engineer, shall determine for each user or user class the average daily poundage of 5-day 20-degree Centigrade Biochemical Oxygen Demand (BOD) discharged to the wastewater system to determine such user's BOD Contribution Percentage.

(Source: Ordinance NO. 17; 1985)

7.0414 Determining Suspended Solids

The City of Reile's Acres, or its city engineer, shall determine for each user or user class the average daily total Suspended Solids (TSS) poundage discharged to the wastewater system which shall then be divided by the average daily poundage of all RSS discharged to the wastewater system, to determine such user's TSS Contribution Percentage. The Volume Contribution Percentage, BOD Contribution Percentage and TSS Contribution Percentage for each user or user class shall be multiplied by the annual operation and maintenance costs for wastewater treatment of the total volume flow, total 5-day 20-degree Centigrade BOD and total TSS, respectively.

(Source: Ordinance NO. 17; 1985)

7.0415 WASTEWATER FACILITIES REPLACEMENT FUND

A reserve fund called the Wastewater Facilities Replacement Fund is hereby established within the wastewater utility fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories and appurtenances during the useful life (20 years) of the wastewater

treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed (see Appendix C).

(Source: Ordinance NO. 17; 1985)

7.0416 NOTIFICATION

Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(Source: Ordinance NO. 17; 1985)

7.0417 WASTE PROHIBITED FROM BEING DISCHARGED TO THE WASTEWATER TREATMENT SYTEM

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 contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, constitute a hazard in or have an adverse effect on the waters receiving any discharge from the treatment works is hereby prohibited.

Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the wastewater treatment works shall pay for such increased costs.

(Source: Ordinance NO. 17; 1985)

7.0418 PROHIBITION OF CLEAR WATER CONNECTIONS

No person shall make connection of roof downspouts, sump pump hoses, exterior 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.

(Source: Ordinance NO. 17; 1985)

7.0419 PROPER DESIGN AND CONSTRUCTION OF NEW SEWERS AND CONNECTIONS

The size, slope, alignment and materials of construction of all sanitary sewers and sewer connections, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city of Reile's Acres and the state of North Dakota. In the absence of code provision or in application thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C. F. manual of Practice No. 9 shall apply.

(Source: Ordinance NO. 17; 1985)

7.0420 VALIDITY

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

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

(Source: Ordinance NO. 17; 1985)

7.0421 INSPECTION AND SURCHARGE AUTHORITY REGARDING IMPROPER CONNECTION TO SEWER SYSTEM

A. Section 7-00422 of the Revised Ordinances of the City of Reile's Acres prohibit any person from discharging or causing to be discharged any roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater directly or indirectly to the city sanitary sewer unless such connection is approved by the Superintendent and the North Dakota State Department of Health. Before March 1, 1992, any persons, firm or corporation having a roof, sump pump, swimming pool discharge of surface drain now connected and/or discharging into the sanitary sewer shall disconnect and/or remove same. Any disconnects or openings in the sanitary sewer shall be closed or repaired in an effective, workmanlike manner, as approved by the City Engineer.

B. Every person owning improved real estate that discharges into the City's sanitary sewer system shall allow the City employee (s) or persons employed by the City to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. Any person may furnish a certificate from a licensed plumber certifying that their property is in compliance with paragraph A of this section in lieu of having the City inspect their property. Any person refusing to allow their property to be inspected or refusing to furnish a plumber's certificate within fourteen (14) days of the date City employee (s) are denied admittance to the property shall immediately become subject to the surcharge

hereinafter provided for. Any property found to violate paragraph A of this section shall make the necessary changes to comply with paragraph A and furnish proof of the changes to the City by March 1, 1992.

C. A surcharge as described in Appendix B is imposed and added to every sewer billing mailed on and after April 1, 1992, to property owners who are not in compliance with paragraph A of this section. Provided, the surcharge shall not be charged unless a property had been inspected and found to be in noncompliance, or if the person owning improved real estate refuses to allow an inspection and does not provide a plumber's certificate as set forth in paragraph B of this section.

D. A monthly surcharge as set by resolution of the City Council is hereby imposed and added to every sewer billing to property owners who are not in compliance with paragraph 1 of this section. The surcharge shall continue to be levied monthly for the months of April through October (both inclusive) of every year on properties not complying with paragraph 1 of this section. Provided, the surcharge shall not be charged unless a property has been inspected and found to be in noncompliance, or if the person owning improved real estate refuses to allow an inspection and does not provide a plumber's certificate as set forth in paragraph A of this section.

E. The Mayor shall appoint a committee of three (3), who shall act as an appeals board regarding the enforcement of Section 7.0421. This committee shall have the authority to grant exemptions from strict compliance with the terms of Section 7.0421 for a particular property owner who can establish unique and extenuating circumstances which would justify an exemption from strict compliance with the terms of Section 7.0421. The committee may grant seasonal waivers which would allow for discharge into the sanitary system between November 1 and April 1 for residences whose sump pumps continue to run during that period of year and for which discharge to the exterior would lead to icy conditions or the breaking of pipes or related problems. An appeal to the City Council from a decision of the committee must be filed within thirty (30) days from the date of the decision. A vote of four (4) members of the City Council shall be necessary to overturn any decision of the committee.

F. Any person granted a seasonal waiver shall be billed a yearly amount as set by resolution of the City Council as part of their water and sewer bill to cover the cost of City staff and the additional cost in treating the extra water during the period of the waiver. If a person is granted a permanent waiver as opposed to a seasonal waiver, a monthly surcharge as set by resolution of the City Council shall be added to the water and sewer bill to compensate the City for the extra cost of treating the additional water entering the sanitary sewer system from that premise.

G. When a structure is being constructed in the City of Reile's Acres, if at or prior to final inspection City staff determines that the sump pump connection has been illegally connected to the City's sanitary sewer system, or that there is another connection or device or lack of a plug which allows surface runoff or groundwater to enter into the sanitary sewer system, either permanently or temporarily, there shall be levied an administrative fine against the general contractor for the structure found to be in violation. If after 24 hours after written notice from the City the general contractor has not remedied the situation so that no surface runoff or groundwater can enter into the City's sanitary sewer system, there shall be an additional administrative fine for each day such a violation exists. Said administrative fines shall be set by resolution of the City Council. In addition, the Building Inspector shall not issue another building permit within the

jurisdiction of the Building Inspector of the City of Reile's Acres for that contractor until the violation has been remedied and any administrative fine has been fully paid to the City.

(Source: Ordinance NO. 17; 1985, 2016)

APPENDIX A
SURCHARGE RATE SCHEDULE FOR
ABOVE NORMAL STRENGTH WASTES

The City of Reile's Acres, or its Engineer, has determined that the average total suspended solids (TSS) and 5-day biochemical oxygen demand (BOD) daily loadings for the average residential user are 150 mg/1 BOD and 100mg/1 TSS. The City of Reile's Acres, or its Engineer, has assessed a surcharge rate for all non-residential users discharging wastes with BOD and TSS strengths greater than the average residential user. The surcharge will be sufficient to cover the costs of treating such users' above normal strength wastes. Such users will pay an additional service charge [fixed by resolution of the city council] per 1,000 gallons for each 25 ppm over 100mg/1 TSS, where the values of A and B are established by council resolution.

APPENDIX B
RATE SCHEDULE

Residential users are considered to be one class of user and are assessed per month charge established by council resolution. Non-residential users with flows not greater than the average residential user's flow of 5,300 gallons per month and with BOD and TSS no greater than the average residential user's strength of 150mg/1 BOD and 100 mg/1 TSS will pay the same charge per month as the average residential user.

Non-residential users with volume greater than the average residential user will pay an additional monthly charge established by council resolution for each 1,000 gallons per month for all flows greater than the average residential user's flow of 5,300 gallons per month.

Any non-residential user with BOD and TSS greater than the average residential user's strength of 150 mg/1 BOD and 100mg/1 TSS will pay a surcharge in accordance with the rates shown in the surcharge rate schedule.

Any user not in compliance with Section 7.0421 shall have a surcharge of one hundred dollars (\$100) per month added to every sewer billing mailed on and after April 1, 1992. The surcharge shall be added every month until the property is in compliance.

APPENDIX C

WASTEWATER FACILITIES REPLACEMENT FUND SCHEDULE

The reserve fund called the Wastewater Facilities Replacement Fund established within the wastewater utility fund as an interest-bearing account shall be funded by a yearly deposit, established by council resolution, obtained from the wastewater utility fund at the end of each fiscal year.

USER CHARGE SYSTEM

REILE'S ACRES, NORTH DAKOTA

Estimated Annual Operating & Maintenance Costs

Salaries: \$1,500.00

Power: \$ 600.00

Materials & supplies: \$1,250.00

Replacement Fund: \$1,750.00

Septic Tank pumping: \$500.00

Total Costs: \$5,600.00/year

\$ 467.00/month

Current Average Flow per Residence as determined from estimate per capita usage. Source Reile's Acres Wastewater Facility Plan.

Average Residential Usage – 5,300 gallons/month/residence = 1R

Rage Schedule

\$5600/year = \$467/month

\$467/month = \$8.98

52R

R = 9.00

Determination of BOD & SS surcharge for wastes above 150 mg/1 & 100 mg/1, respectively.

R = \$9.00/mo. For treating 5,300 gallons/mo. = \$1.70/1,000 gal.

Assuming that the cost can be broken down to 60%, 20% and 20% attributable to flow, BOD and SS this basic charge is:

Cost to treat flow = \$1.70 x 60% = \$1.02/1,000 gal.

Cost to treat BOD = \$1.70 x 20% = \$.34/1,000 gal.

Cost to treat SS = \$1.70 x 20% = \$.34/1000 gal.

25 mg/1 of BOD per 1,000 gal. is equivalent to $\frac{.34 \times 25 \text{ mg/1}}{100} = 150 \text{ mg/1}$

.06 dollars per 25 mg/1 per 1, 000 gal.

25 mg/1 of SS per 1,000 gal. is equivalent to $\frac{.34 \times 25 \text{ mg/1}}{100} = 100 \text{ mg/1}$

.09 dollars per 25 mg/1 per 1,000 gal.

ARTICLE 5 - Adoption of State Plumbing Code

7.0501 Adoption

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

7.0502 Plumbing Code - Enforcement of Provisions

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

7.0503 Plumbing Code - Changes in Existing Installations

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

7.0504 Plumbing Code - New Installations

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

ARTICLE 6 - General Penalty Provision

7.0601 Penalty for Violation of Chapter

Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of an infraction and, upon conviction thereof by a court of competent jurisdiction, shall be subject to a fine of not exceeding five hundred dollars (\$500.00) for each violation.

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APPENDIX B
RATE SCHEDULE (When Applicable)

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Any user not in compliance with Section 7.0421 shall have a surcharge of one hundred dollars (\$100) per month added to every sewer billing mailed on and after April 1, 1992. The surcharge shall be added every month until the property is in compliance.

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Average Residential Usage – 5,300 gallons/month/residence = 1R

Rate Schedule

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\$467/month = \$8.98

52R

R = 9.00

Determination of BOD & SS surcharge for wastes above 150 mg/1 & 100 mg/1, respectively.

R = \$9.00/mo. For treating 5,300 gallons/mo. = \$1.70/1,000 gal.

Assuming that the cost can be broken down to 60%, 20% and 20% attributable to flow, BOD and SS this basic charge is:

$$\text{Cost to treat flow} = \$1.70 \times 60\% = \$1.02/1,000 \text{ gal.}$$

$$\text{Cost to treat BOD} = \$1.70 \times 20\% = \$.34/1,000 \text{ gal.}$$

$$\text{Cost to treat SS} = \$1.70 \times 20\% = \$.34/1000 \text{ gal.}$$

25 mg/1 of BOD per 1,000 gal. is equivalent to .34 x 25 mg/1 = 150 mg/1

.06 dollars per 25 mg/1 per 1, 000 gal.

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.09 dollars per 25 mg/1 per 1,000 gal.

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CHAPTER EIGHT

BUSINESS REGULATIONS AND LICENSES

ARTICLE 1 - General Provisions

8.0101 Licenses

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

8.0102 Licenses - Application

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

8.0103 Licenses - Granting

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

8.0104 Licenses - Term

1. No license or permit shall be granted for a longer period than one (1) year.
2. All yearly licenses or permits shall commence on the first day of January in each year and expire on the last day of December in each year. All semi-annual licenses or permits shall commence on the first day of January and the first day of July and expire on the last day of June and the last day of December respectively.

3. No license or permit shall be valid until signed and sealed nor shall any persons be deemed licensed until a license shall be duly issued to him.

4. Each license shall be dated the day of issuance thereof; but if the applicant or applicants shall have been acting without a license, the license shall commence with the date business commenced. If the business calls for a yearly license, then a license shall commence on the first day of January in the year for which the license shall be issued.

5. The date of issuance of the license, together with the time of commencing and expiration shall be given in the license and the license record.

8.0105 Licenses - Not Transferable

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

8.0106 Licenses - Revocation

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

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

1. Violation of the laws of the State of North Dakota or any of the ordinances of the City dealing with or pertaining to the business or trade licensed.
2. The willful making of any false statement as to a material fact in the application for license.

3. Permitting any disorderly or immoral practices upon the premises where the licensee is licensed to carry on the business or trade.
4. The death of a licensee.
5. When the licensee ceases business at the location licensed.
6. When the licensee ceases to be a legal and bona fide citizen of the State of North Dakota.

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

8.0107 Licenses - Posting of

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

8.0108 Licenses - Short Term

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

8.0109 Licenses - Enforcement

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

ARTICLE 2 - Transient Merchants

8.0201 Definitions

For the purpose of this article:

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

2. "Merchandise" shall not include any livestock or agricultural product.

8.0202 License Required

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

8.0203 License Fee

The license fee to be required of all transient merchants for the transaction of such business within the City is hereby fixed at the sum of \$25.00 per day for each and every day during which any such transient merchants shall transact business in the City. (Source: North Dakota Century Code Section 51-04-09)

8.0204 License - Application for

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

1. Applicant's name, present residence, present home address, present business address, and if a corporation, under the laws of what state the same is incorporated;

2. The name, present residence, present home address and present business address of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the City;

3. The residence, business address and type of business in which applicant has been engaged in the previous two (2) years;

4. The residence, business address and type of business in which the person having the management or supervision of applicant's business has been engaged in the previous two (2) years;

5. The place or places in the City, where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;

6. The kind of business to be conducted;

7. The name and address of the auctioneer, if any, who will conduct the sale; and

8. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the City, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or by sample; at auction, by direct sale or by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produces, and where such goods or products are located at the time said application is filed.

8.0205 Bond

Before any license shall be issued to a transient merchant for engaging in business in this City, the applicant therefore shall file with the city auditor a bond running to the City in the sum of \$1,000 executed by the applicant, as principal, and a responsible surety upon which service of process may be made in the State of North Dakota; said bond not to be revocable nor to terminate prior to passage of two years time after the expiration of the license issued pursuant thereto nor until due notice that the terms of the bond are to be cancelled has been given to the city auditor. The bond is to be approved by the city attorney, conditioned that the applicant shall comply fully with all of the provisions of the ordinances of the City and the statutes of the State of North Dakota, regulating and concerning the sale of goods, wares and merchandise and will pay all judgments rendered against the applicant for any violation of said ordinances or statutes, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting

business with the applicant, whether misrepresentations or deceptions were made or practiced by the owners or by their servants, agents or employees, of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the City to the use of the aggrieved person.

8.0206 Service of Process

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

8.0207 Exhibiting License

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

8.0208 Transfer

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

8.0209 Enforcement by Police

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

8.0210 Revocation

1. Any license issued pursuant to this article may be revoked by the governing body of the City, after notice and hearing for any of the following causes:

- a. Any fraud, misrepresentation or false statement contained in the application for license;
- b. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;
- c. Any violation of this article;
- d. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or
- e. Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

2. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for the hearing.

8.0211 Expiration of License

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

ARTICLE 3 - Hawkers and Peddlers

8.0301 Definitions

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

8.0302 License Required

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

8.0303 Exceptions

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

8.0304 License - Application for

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

1. Name, age and sex of the applicant;
2. Address (legal and local);
3. A brief description of the nature of the business and the goods to be sold;
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;

5. The length of time for which the right to do business is desired;
6. If a vehicle is to be used, a description of the same, together with license number; and
7. A statement as to whether or not the applicant has been convicted of any crimes, misdemeanors or violations of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.

8.0305 Fees

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

8.0306 Exhibition of License

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

8.0307 Transfer

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

8.0308 Use of Streets

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

8.0309 Enforcement

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

8.0310 Revocation

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

ARTICLE 4 - Runners, Solicitors and Canvassers

8.0401 Definitions

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

8.0402 Exceptions

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

8.0403 License Required

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

8.0404 License - Application for

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

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

8.0405 Fees

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

8.0406 Exhibition of License

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

8.0407 Transfer

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

8.0408 Use of Streets

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

8.0409 Enforcement

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

8.0410 Revocation

1. Licenses issued under the provisions of this article may be revoked by the governing body of the City after notice and hearing, for any of the following causes:

- a. Fraud, misrepresentation or false statement contained in the application for license;

- b. Fraud, misrepresentation or false statement made in the course of carrying on his business;
- c. Any violation of this article;
- d. Conviction of any crime or misdemeanor involving moral turpitude;
- e. Conducting the business of soliciting and canvassing in an unlawful manner or in such a manner as to constitute a breach of peace or constitute a menace to the health, safety or general welfare of the public.

2. Notice of a hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for the hearing.

ARTICLE 5 - Solicitation without Invitation

8.0501 Solicitation without Invitation Prohibited

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

8.0502 Enforcement

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

ARTICLE 6 - Alcoholic Beverages

8.0601 Definitions

For the purpose of this article:

1. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
2. "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.
3. "Licensee" shall mean any person, firm, corporation, association or club which shall have secured a license pursuant to provisions of this chapter or their agent or employee.
4. "Liquor" shall mean any alcoholic beverage except beer.
5. "Person" shall mean and include any individual, firm, corporation, association, club, co-partnership, society or any other organization; and shall include the singular and the plural.
6. "Sale" and "sell" shall mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of and keeping for sale of such alcoholic beverages.
7. "Package" and "original package" shall mean and include any container or receptacle containing an alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
8. "Club" or "lodge" shall include any corporation or association organized for civic, fraternal, social or business purposes or the promotion of sports, which has at least 200 members at the time of application for license.
9. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.

10. "Off-sale" shall mean the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.

11. "On-sale" shall mean the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.

8.0602 Exceptions

1. This article shall not apply to wines delivered to priests, rabbis and ministers for sacramental use.

2. This article shall not be construed to apply to the following articles, when they are unfit for beverage purposes:
 - a. Denatured alcohol produced and used pursuant to Acts of Congress and the regulations thereunder.

 - b. Patent, proprietary, medical, pharmaceutical, antiseptic and toilet preparations.

 - c. Flavoring extracts, syrups and food products.

 - d. Scientific, chemical and industrial products; nor to the manufacturer or sale of said articles containing alcohol.

8.0603 License Required

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

8.0604 License-Classes of-Fees

An on- and off-sale liquor licenses have a semi-annual fee to be set by resolution of the city council. An on- and off-sale beer license has a semi-annual fee to be set by resolution of the city council.

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

8.0605 Licenses - Terms of

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

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

8.0606 License - Qualifications for

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

1. Applicant, if an individual, must be a legal resident of the United States, a resident of the State of North Dakota and a person of good moral character.

2. If applicant is a corporation, the manager of the licensed premises and the officers, directors and stockholders must be legal residents of the United States and persons of good moral character. Corporate applicants must first be properly registered with the Secretary of State

3. If applicant is a co-partnership, all the members must be legal residents of the United States and of good moral character.
4. Applicant or manager must not have been convicted of a felony.
5. Building in which business is to be conducted must meet local and state requirements regarding the sanitation and safety.
6. Taxes on property for which application for license is made must not be delinquent.
7. If applicant's place of business is to be conducted by a manager or agent, said manager or agent must possess the same qualifications required of the licensee.

8.0607 Application for Liquor License

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

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

6. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the date and type of business and place where so engaged whether within or without the State of North Dakota, the date the applicant first began to operate.

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

8. Whether the applicant has ever been convicted of the violation of any law of the United States or of any state, or of the violation of any local ordinance with regard to the manufacture, sale, distribution or possession of alcoholic beverages, and if so, the dates, names of place and courts in which said convictions were had.

9. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state laws or local ordinances, and if so, the names of the bodies revoking such license, the dates of such revocation and the reasons assigned therefore.

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

11. The name and address and the place of residence for a period of one year prior to the date of application of any person who will have charge, management or control of the establishment for which license is sought.

12. Whether any other person than the applicant has any right, title, estate or interest in the leasehold or in the furniture, fixtures or equipment in the premises for which license is sought, and if so, the name and address of such person together with a statement of the interest so held.

13. Whether the applicant has any interest whatsoever directly or indirectly, in any other establishment dispensing alcoholic beverages, either at wholesale or retail, within or without the State of North Dakota, and if so, the names and addresses of such establishments. This provision is meant to include the holders of capital stock in any corporation dealing in alcoholic beverages, either at wholesale or retail, within the borders of the United States.

14. The occupations that the applicant has followed during the past five years.

15. The names and addresses of at least three business references.

16. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.

17. Whether the applicant is engaged in any other business or intends to be engaged in any other business than the sale of alcoholic beverages under the license for which application is made, and if so, the type of business, and if an employee, the name and address of the employer.

18. The classification of license applied for.

19. If the applicant is a lodge or a club, the date of organization, the number of members, the purpose for which organized and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the governing body a list of the members belonging to such lodge or club.

20. A statement by the applicant that he consents to entry and inspection of the premises for which license is sought or any part thereof at any time by any police officer, sheriff or any peace officer of this City or of the State of North Dakota.

8.0608 License - Application Fitness

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

8.0609 License - Location of

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

1. The convenience of police regulations.
2. Public health and sanitation.

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

8.0610 License - Granting

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

8.0611 License - Limit to One Applicant

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

8.0612 License - Posting of

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

8.0613 License - Transfer of

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

8.0614 License Fees - Disposition of

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

8.0615 Hours and Time of Sale - Penalty

Anyone who dispenses or permits the consumption of alcoholic beverages on a licensed premises after one o'clock a.m. on Sundays, before eight o'clock a.m. on Mondays or between the hours of one o'clock a.m. and eight o'clock a.m. on all other days of the week or who so dispenses or permits such consumption after one o'clock a.m. on Thanksgiving Day, on Christmas Day, or after six o'clock p.m. on Christmas Eve is guilty of an offense. Anyone licensed by the City governing body to sell alcoholic beverages may apply to the City governing body for a permit to sell alcoholic beverages under that license during the hours from twelve noon on Sundays to one o'clock a.m. on Mondays. The authority for issuing the permit rests solely with the City governing body. The fee for this permit shall be set by resolution of the City governing body. (Source: North Dakota Century Code Section 5-02-05, 5-02-05.1) Any licensee wishing to dispense or permit the consumption of alcoholic beverages between the hours of twelve noon on Sunday and one o'clock a.m. on Monday may apply for a Sunday alcoholic beverage permit from the City governing body. The fee for the permit is five dollars for each Sunday the licensee is allowed to sell alcoholic beverages.

(Source: North Dakota Century Code Section 5-02-05.1)

8.0616 Licensee's Responsibility

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

8.0616.1 Sunday Alcoholic Beverage Permit - Penalty

Anyone licensed by the City governing body to sell alcoholic beverages may apply to the City governing body for a permit to sell alcoholic beverages under that license during the hours from twelve noon on Sundays to one a.m. on Mondays. The authority for issuing the permit rests solely with the City governing body. The fee for this permit shall be set by resolution of the City governing body.

Anyone who dispenses, sells or permits the consumption of alcoholic beverages in violation of this ordinance, or who furnishes false or misleading information in applying for a permit is guilty of an offense which is punishable by a fine of up to \$500.00.

(Source: North Dakota Century Code Section 5-02-05.1)

8.0617 Gambling Prohibited - Exceptions

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

8.0618 Cashing Certain Checks Prohibited

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

8.0619 Sales Prohibited - Persons

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

8.0620 Minors in Licensed Premises

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

(Source: North Dakota Century Code Section 5-02-06)

8.0621 Age Identification

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

8.0622 Street Sales Prohibited

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

8.0623 Premises, Equipment of

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

8.0624 Closed or Screened Areas

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

8.0625 Purchase from Licensed Wholesaler

No licensee hereunder shall purchase, have or possess any alcoholic beverages other than those purchased from a wholesaler duly licensed by the State of North Dakota pursuant to the provisions of Title 5 of the North Dakota Century Code. Each licensee hereunder shall keep on file all invoices covering

purchases by him of such alcoholic beverages showing the name and license number of the wholesaler. Such records shall be retained in the possession of the licensee and shall be at all times open to inspection by any police officer or peace officer of the State of North Dakota.

8.0626 Toilets Required

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

8.0627 Deliveries - Off Licensed Premises

1. It shall be unlawful for any person, firm or corporation engaged in the retail sale of liquor, beer or alcoholic beverages to make, or cause to be made any deliveries outside of the licensed place of business of beer, liquor or other alcoholic beverages to any purchaser or prospective purchaser.

2. It shall be unlawful for any person, firm or corporation to deliver by foot, carrier or motor carrier, any beer, liquor or alcoholic beverage to any person within the city limits provided however, that this section shall not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer.

8.0628 Termination or Revocation of Licenses

1. Licenses issued pursuant to this article shall be deemed cancelled and revoked and terminated upon the happening of any one or more of the following contingencies:

- a. The death of the licensee unless upon application to the governing body by personal representative of the decedent, the governing body shall consent to the carrying on of the business by the personal representative.
- b. When the licensee ceases business at the location licensed, unless a new location has been approved.
- c. When the licensee be adjudged bankrupt.
- d. When the licensee has been convicted of the violation of any provision of this article, or of the laws of the State of North Dakota pertaining to

alcoholic beverages or of a felony under the laws of the United States, the State of North Dakota or of any other state of the United States.

- e. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this article.
- f. When the license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the location licensed has been terminated or been revoked.
- g. When the licensee ceases to be a legal bona fide resident and citizen of the State of North Dakota.

2. License issued pursuant to this ordinance may, in the discretion of the governing body, be either revoked or suspended for such period of time as deemed appropriate, upon the following grounds:

- a. When the licensee has been convicted of violating any of the provisions of this article.
- b. When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances of the City.
- c. When the licensee, if an individual, or one of the partners, if the licensee be a partnership, or one of the officers or the manager if the licensee be a corporation, be convicted in the municipal court of the City of drunkenness or disorderly conduct, or if any appeal be taken from such conviction then when such conviction be sustained by the higher court or courts.

3. Such causes as are hereinbefore detailed shall not be deemed to be exclusive and such license may also be cancelled and revoked or suspended at any time by the governing body for any cause deemed by said governing body to be sufficient cause and justified by reason of public health or public morals. Such termination shall be subject only to review by the courts of the State of North Dakota.

4. When any license is terminated or revoked for cause, or the licensee voluntarily ceases his business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

8.0629 Penalties

Any person, firm, corporation or association violating any of the provisions of this article shall upon conviction thereof, be subject to a fine of not to exceed five hundred dollars (\$500.00), or to imprisonment of not to exceed thirty (30) days; or in the discretion of the court to both such fine and imprisonment; and in addition to both such fine and imprisonment all powers, right and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with section 8.0628 of this article.

ARTICLE 7 - Shows, Carnivals and Circuses

8.0701 License Required

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

8.0702 Fees for

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

Any carnival, per day.....\$1,000.00

Any circus, per day.....\$1,000.00

In addition to the above fees, any carnival or circus granted a license shall deposit with the city auditor cash bond in the amount of \$25,000.00 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 city engineer and upon certification of the city engineer to the city auditor or if the City has no city engineer upon determination of the city auditor that the same has been done said cash deposit shall be returned to the licensee. Provided, further, that in addition to such fees, an additional fee in an amount to be fixed by the governing body, shall be paid at the time of obtaining license to provide for fire and police protection and additional policing in connection with the showing of such carnival or circus.

ARTICLE 8 - Validity

8.0801 Validity

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

ARTICLE 9 - Penalty

8.0901 Penalty

Any person, firm, corporation or association violating any of the terms, articles or provisions of this chapter, for which a specific penalty is not prescribed, shall upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the court. The court shall have the power to suspend such sentence and to revoke the suspension thereof. The court may, in addition thereto, revoke the permit of such violator, or terminate or revoke all powers, rights and privileges given by any license granted under the terms of this chapter. Each day or part thereof that a person shall be in violation of the provisions of this chapter shall be considered a separate violation thereof.

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CHAPTER NINE

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ARTICLE 1 – Definitions

9.0101 Definitions

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

ARTICLE 2 – Traffic Administration

9.0201 Duty of Cass County Sherriff's Department

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

9.0202 Records of Traffic Violations

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

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

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

9.0203 Sherriff's Department to Investigate Accidents

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

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

ARTICLE 3 – Enforcement and Obedience to Traffic Regulations

9.0301 Authority of Police and Fire Department Officials

1. It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this City and all of the state vehicle laws.

2. Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

3. Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

9.0302 Obedience to Traffic Ordinances

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

9.0303 Obedience to Police Officers or Firemen

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

9.0304 Certain Non-motorized Traffic to Obey Traffic Regulations

1. Every person propelling any pushcart upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance and by the rules of the road portion of the state vehicle code, except those provisions which by their very nature can have no application.

2. Every person riding a bicycle or an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance, except those provisions of this ordinance which by their very nature can have no application.

9.0305 Use of Coasters, Roller Skates and Similar Devices Restricted

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

9.0306 Public Employees to Obey Traffic Regulations

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

9.0307 Emergency Vehicles

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

1. Authorized emergency vehicles. **Class A** authorized emergency vehicle shall mean:

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

(Source: North Dakota Century Code Section 39-01-01)

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

- a. Park or stand, irrespective of the provisions of this chapter
- b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- c. Exceed the speed limit so long as he does not endanger life or property;
- d. Disregard regulations governing directions of movement or turning in specified directions.

3. The exceptions herein granted to a Class A authorized emergency vehicle shall apply only:

a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions;

b. When the Class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death or damage to property, and when giving 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. In any instance when the head of the 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).

4 .No emergency vehicle shall display or permit to be displayed any red lamp except when operated on official business.

5 .Any law enforcement officer as provided in paragraph 2 of subdivision a of subsection 1 of Section 39-01-01 of the North Dakota Century Code having stopped another vehicle along a highway, and while still involved in that incident, or any other such activity, may use amber lights, visible under normal atmospheric conditions for at least five hundred feet (152.4 meters), for the purpose of maintaining traffic flow.

6.Class B authorized emergency vehicles shall mean wreckers and such other emergency vehicles as are authorized by local authorities.

7.The driver of Class B authorized emergency vehicles may:

a. part or stand, irrespective of the provisions of this chapter;

b. Exceed the speed limit so long as he does not endanger life or property during the time of a local or national disaster;

c. Disregard regulations governing direction of movement or turning in specified directions.

7. The exceptions herein granted to a Class B authorize emergency vehicle shall apply only when the authorized emergency vehicle is displaying an amber light visible under normal atmospheric conditions for a distance of five hundred feet (152.4 meters) in any direction, and

a. When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;

b. When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of the driver; or

c. When traveling at a speed slower than the normal flow of traffic.

(Source: North Dakota Century Code Section 39-10-03.2)

8. Class C authorized emergency vehicles means:
 - a. Vehicles authorized by state and local division of emergency management organizations;
 - b. Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - c. Vehicles other than ambulance, used by emergency medical personnel.
9. Class C authorized emergency vehicles. All Class B specifications apply to Class C authorized emergency vehicles except that a rotating blue flashing light shall be displayed in place of an amber light as provided in section 39-10-03.1 of the North Dakota Century Code. 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. (Source: North Dakota Century Code Section 39-10-03.2)

9.0308 Operation of Vehicles on Approach of Authorized Emergency Vehicles

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

1. Upon the immediate approach of an authorized emergency vehicle displaying a visible flashing, revolving, or rotating blue, white, or red light, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb 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 any authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highways.

9.0309 Written Report of Accident

1. Immediate notice of accident. The driver of a vehicle involved in an accident resulting in injury to or death of any person or at least one thousand dollars, shall immediately give notice of the accident to the local police department if the accident occurs within a municipality, otherwise to the office of the county sheriff or the state highway patrol. The name of the motor vehicle insurance policy carrier and the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor vehicle insurance policy carrier and the policy number of the owner of the vehicle, must be furnished to the law enforcement officer investigating the accident. If the driver does not have the required information concerning insurance to furnish to the investigating law enforcement officer, then within five (5) days of the accident the driver shall supply that information to the Driver's License Division in the form the division requires. (Source: North Dakota Century Code Section 39-08-09)
2. Officer to report. Every law enforcement officer, who in the regular course of duty investigates a motor vehicle accident required to be reported as provided in subsection 1 either at the time and at the scene of the accident or thereafter by interviewing the

participants, or witnesses, shall make and promptly forward to the director of the Department of Transportation a report of the accident in a format prescribed by the director. (Source: North Dakota Century Code Section 39-08-10)

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

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

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

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

4. Wrecker and towing services to report. The person in charge of the operator of any commercial towing or wrecker service which causes any motor vehicle to be transported to a private residence or business other than a garage or repair shop which shows evidence of having been involved in a reportable accident as provided in section 39-08-09 or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is transported. The report must give the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, along with the location such vehicle was transported to, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. If the vehicle does bear such a sticker the towing or wrecker service need not make the report this section requires. (Source: North Dakota Century Code Section 39-07-13)

ARTICLE 4 – Traffic Control Devices

9.0401 Authority to Install

The city engineer or any person authorized by the governing body shall place and maintain traffic-control signs, signals, and devices when and as required under the traffic ordinances of this City to make effective

the provisions of said ordinances, and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under the traffic ordinances of this City or under state law, or to guide or warn traffic.

9.0402 Specifications for

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

9.0403 Obedience to Traffic-Control Devices

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

1. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.
2. No provision of this chapter for which traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a state statute does not state that devices are required, such statute shall be effective even though no devices are erected or in place.
3. Whenever official traffic-control devices are placed in position approximately conforming to the requirements of state law, such devices shall be presumed to have been so placed by the official act or direction of lawful authority unless the contrary shall be established by competent evidence.
4. Any official traffic-control device placed pursuant to the provisions of state law and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of the chapter, unless the contrary shall be established by competent evidence.

9.0404 Unauthorized Signs

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

1. No person shall place, maintain, or display upon or in view of any highway, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.
2. No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.
3. This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

4. Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice when located on highway right of way.
5. No person shall place, maintain, or display upon or within the right of way of any highway any sign, post, pole, mailbox, or signal which has a red lamp or red reflector visible to traffic. The provisions of this subsection shall not apply to official traffic devices, lamps, or reflectors on motor vehicles or bicycles, or railroad signals or signs.

9.0405 Interference with Official Traffic Control Device or Sign

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

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

9.0406 Designation of Walks, Lanes, etc.

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

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

ARTICLE 5 – Speed Regulations and Care Required

9.0501 Basic Rules – Penalty for Violation

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

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. Any person who shall drive a vehicle upon a highway or private or public property open to the public for the operation 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 and No/100 Dollars (\$30.00).

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

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

9.0502 Speed Limitations

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

1. Subject to the provisions of 9.0501 and except in those instances where a lower speed is specified in this chapter, it presumably shall be lawful for the driver of a vehicle to drive the same at a speed not exceeding:
 - a. Twenty (20) miles an hour when approaching within fifty (50) feet of a grade crossing of any steam, electric, or street railway when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last two hundred (200) feet of the driver's approach to such crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred (400) feet in each direction from such crossing;
 - b. Twenty (20) miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;
 - c. Twenty (20) miles an hour when approaching within fifty (50) feet and in traversing an intersection of highways when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last fifty (50) feet of the driver's approach to such intersection, the driver does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred (200) feet from such intersection;
 - d. Twenty (20) miles an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred (100) feet;
 - e. Twenty-five (25) miles an hour on any highway in a business district or in a residence district or in a public park, unless a different speed limit is designated and posted by local authorities; and
 - f. Fifty-five (55) miles an hour under other circumstances, unless otherwise permitted, restricted, or required by conditions.
1. The director of the North Dakota Department of Transportation may designate and post special areas of state highways where lower speed limits shall apply.
2. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.

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

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

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

1. Whenever 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 what is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the City may determine and declare a reasonable and safe maximum limit thereon which:
 - a. Decreases the limit at intersections;
 - b. Increases the limit within an urban district but not to more than fifty-five (55) miles per hour; or
 - c. Decreases the limit outside an urban district.
1. 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.
2. Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.
3. Any alteration of maximum limits on state highways or extensions thereof in the municipality shall not be effective until such alteration has been approved by the director of the North Dakota Department of Transportation.
4. Not more than six such alterations as hereinabove authorized shall be made per mile along a street or highway except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than ten (10) miles (16.09 kilometers) per hour.

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

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

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

9.0505 Minimum Speed Limits

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

1. No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
2. Whenever the 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 speeds on any highway or part of a 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.

9.0506 Regulations of Speed by Traffic Signals

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

9.0507 Exhibition Driving and Drag Racing – Definitions – Penalty

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

1. No person 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 by engaging in an act defined by subdivision b of subsection 2 must be assessed a fee of fifty dollars. Any person who violates this section by engaging in an act defined by subdivision a or c of subsection 2 must be assessed a fee of one hundred dollars.
2. As used in this section:
 - a. “Drag race” means the operation of two or more vehicles from a point side-by-side by accelerating rapidly in a competitive attempt to cause one vehicle to out distance the other; or the operation of one or more vehicles over a common selected course from the same point to the same point for the purpose of comparing the relative speed or powers of acceleration of such vehicle or vehicles within a certain distance or time limit.
 - b. “Exhibition driving” means driving a vehicle in a manner which disturbs the peace by creating or causing unnecessary engine noise, tire squeal, skid, or slide upon acceleration or braking; or driving and executing or attempting one or a series of unnecessarily abrupt turns.
 - c. “Race” means the use of one or more vehicles in an attempt to outgain, outdistance, or to arrive at a given distance ahead of another vehicle or vehicles; or the use of one or more vehicles to willfully prevent another vehicle from passing the facing vehicle or vehicles, or to test the physical stamina or endurance of the persons driving the vehicles over a long distance driving route.
1. Nothing in this section shall be construed as prohibiting drag racing, exhibition driving, or similar events when carried out in an organized manner on a track or other privately owned area specifically set aside and used solely for such purposes by drivers of motor vehicles, including snowmobiles.

9.0508 Radar Evidence in Speed Violations

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

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

9.0509 Care Required in Operating Vehicle

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

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

ARTICLE 6 – Turning Movements

9.0601 Required Position and Method of Turning

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

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

1. Right turns. Both the approach for a right turn and a right turn must be made as close as practicable to the right-hand curb or edge of the roadway;
2. Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn must be made to the left of the center of the intersection and so as to leave the intersection in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered;
3. The City may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when such devices are so placed, no driver of a vehicle may turn other than as directed and required by such devices.

9.0602 Vehicle Turning Left

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

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

9.0603 Limitations on Turning Around

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

1. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safely and without interfering with other traffic.
2. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

9.0604 Turning Movements and Required Signals

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

1. No person may turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety without giving an appropriate signal in the manner hereinafter provided;

2. A signal of intention to turn right or left when required must be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning;
3. No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal; and
4. The signals required on vehicles by subsection 2 or 9.0605 may not be flashed on one side only on a disabled vehicle, flashed as a courtesy or “do pass” signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

9.0605 Signals by Hand and Arm or Signal Lamps

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

1. Any stop or turn signal when required herein must be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection 2.
2. Any motor vehicle in use on a highway must be equipped with, and required signals must be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four (24) inches (60.96 centimeters), or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet (4.27 meters). The latter measurement shall apply to any single vehicle and to any combination of vehicles.

9.0606 Methods of Giving Hand and Arm Signals

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

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

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

ARTICLE 7 – Special Stops

9.0701 Authority to Designate Through Streets

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

The director of the North Dakota Department of Transportation with reference to state highways, and local authorities, with reference to highways under their jurisdiction, may, by proclamation, designate as through highways, any highway, street, or part thereof, and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

9.0702 Through Streets Designated

The following streets and parts of streets are hereby declared to be through streets for the purpose of this chapter: 45th Street.

9.0703 Signs

All traffic control devices shall conform to state specifications.

9.0704 Stop Signs and Yield Signs

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

1. Preferential right-of-way may be indicated by stop signs or yield signs as authorized in Section 9.0701.
2. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersection roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.
3. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop sign, or, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersection roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute and immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Provided, however, that if the driver is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.
4. 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 not crosswalk, then as near as practicable to the nearest line of the intersecting roadway.
5. Except when directed to proceed by a police officer or traffic control sign, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway.
6. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at a point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

9.0705 Emerging from Alley or Driveway

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

9.0706 Stop When Traffic Obstructed

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

No driver shall enter any intersection or a marked crosswalk or drive on to a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.

9.0707 Obedience to Signal Indicating Approach of Train

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

1. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet (15.24 meters) but not less than fifteen (15) feet (4.57 meters) from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
 - a. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
 - b. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
 - c. A railroad train approaching within approximately one thousand three hundred twenty (1,320) feet (402.34 meters) of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or
 - d. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
1. 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.
- 2.

ARTICLE 8 – Operators

9.0801 Operators – Who Prohibited

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

ARTICLE 9 – Miscellaneous Driving Rules

9.0901 When Traffic Obstructed

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

9.0902 Driving Through Funeral or Other Procession

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this ordinance, except when authorized to do so by a law enforcement officer or when such vehicle is an emergency vehicle giving an audible or visible signal. (Source: North Dakota Century Code Section 39-10-72 (4))

9.0903 Drivers in a Procession

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

9.0904 Funeral Processions to be Identified

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

9.0905 When Permits Required for Parades and Processions

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

9.0906 Drive on right Side of Roadway – Exceptions

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

1. Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:
 - a. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
 - b. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the

right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

- c. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
1. 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.
2. Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subdivision b of subsection 1 hereof. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road, or driveway.

9.0907 Passing Vehicles Proceeding in Opposite Direction

The provisions of North Dakota Century Code Section 39-10-09 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

9.0908 Overtaking a Vehicle on the Left

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

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

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

9.0909 When Overtaking on the Right is Permitted

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

1. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

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

9.0910 Limitations on Overtaking on the Left

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

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

9.0911 Further Limitations on Driving on Left of Center of Roadway

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

- 1. No vehicle shall be driven to the left side of the roadway under the following conditions:
 - a. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
 - b. When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing; or
 - c. When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.
- 1. The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in 9.0906 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

9.0912 No-Passing Zones

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

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

2. Where signs or markings are in place to define a no-passing zone as set forth in subsection 1, no driver 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 9.0906 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

9.0913 Driving on Roadways Laned for Traffic

The provisions of North Dakota Century Code Section 39-10-17 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

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

9.0914 Following Too Closely

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

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

9.0915 Driving on Divided Highways

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

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated divided section so construed as to impede vehicular traffic, every vehicle must be driven only upon the right-hand roadway, unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle may be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space at a crossover or intersection as established by public authority, unless such crossing is specifically prohibited and such prohibition is indicated by appropriate traffic-control devices.

9.0916 Restricted Access

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

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

9.0917 Restrictions on Use of Controlled-Access Roadway

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

The director of the North Dakota Department of Transportation 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.

The director of the North Dakota Department of Transportation or the City, as the case may be, shall erect and maintain official signs on the controlled-access roadway on which such regulations are applicable and when so erected no person shall disobey the restrictions stated on such signs.

9.0918 Vehicle Entering Roadway

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

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

9.0919 Vehicle Approaching or Entering Intersection

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

1. When two vehicles approach or enter an intersection not controlled by an official traffic-control device from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. If the intersection is T-shaped and not controlled by an official traffic-control device, the driver of the vehicle on the terminating street shall yield to the vehicle on the continuing street or highway.

2. The right-of-way rule declared in this section is, modified at through highways and otherwise as stated in this chapter.

9.0920 Overtaking and Passing Schoolbus

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

1. The driver of a vehicle meeting or overtaking from either direction any schoolbus stopped on the highway shall stop the vehicle before reaching the schoolbus when there is in operation on the schoolbus the flashing red lights or the stop sign on the control arm specified in North Dakota Century Code 39-21-18, and the driver may not proceed until the schoolbus resumes motion, the driver is signaled by the schoolbus driver to proceed, or the flashing red lights and the stop sign on the control arm are no longer actuated.
2. Every schoolbus shall bear upon the front and rear thereof plainly visible signs containing the word "SCHOOLBUS" in letters not less than eight (8) inches (20.32 centimeters) in height. When a schoolbus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or for a school sanctioned activity, all markings thereon indicating "SCHOOLBUS" shall be covered or concealed.
3. The operator of a schoolbus equipped with amber caution lights may activate those lights at a distance of not less than three hundred (300) feet (91.44 meters) nor more than five hundred (500) feet (152.4 meters) from the point where school children are to be received or discharged from the bus.
4. Every schoolbus must be equipped with a stop sign on a control arm and red visual signals meeting the requirements of North Dakota Century Code Section 39-21-18, which may only be actuated by the driver of the schoolbus whenever the vehicle is stopped on the highway to receive or discharge school children.
5. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a schoolbus which is on a different roadway or when upon a controlled-access highway and the schoolbus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.
6. Every schoolbus must bear on the rear of the bus a plainly visible sign containing the words "THIS SCHOOLBUS STOPS AT ALL RAILROAD CROSSINGS".

9.0921 Unattended Motor Vehicle

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

No person driving or in charge of a motor vehicle may permit it to stand unattended without first stopping the engine, effectively setting the brake thereon, and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

9.0922 Limitations on Backing

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

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

9.0923 Obstruction to Driver's View or Driving Mechanism

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

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

9.0924 Opening and Closing Vehicle Doors

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

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

9.0925 Coasting Prohibited

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

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

9.0926 Following Fire Apparatus Prohibited

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

The driver of any vehicle other than one on official business may not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or stop such vehicle within five hundred (500) feet of any fire apparatus stopped in answer to a fire alarm.

9.0927 Crossing Fire Hose

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

No vehicle may be driven over any unprotected hose of a fire department when laid down on any street, private road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

9.0928 Garbage, Glass, Etc. on Highways Prohibited

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

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

9.0929 Driving Through Safety Zone Prohibited

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

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

9.0930 Moving Heavy Equipment at Railroad Grade Crossings

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

1. No person may operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two adjacent axles or in any event of less than nine (9) inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
2. Before making any such crossing, the person operating, or moving any such vehicle or equipment shall first stop the same not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail or such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
3. No such crossing may be made when warning is given by automatic signal or crossing gates or flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing must be under the flagman's direction.

9.0931 Open Container Law - Penalty

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

1. A person may not drink or consume alcoholic beverages, as defined in Section 5-01-01 of the North Dakota Century Code, in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking. A person may not have in that person's possession on that person's person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It shall be unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing alcoholic beverages which have been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers. This section does not prohibit the consumption or possession of alcoholic beverages in a house car, as defined in Section 9.0101, if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating the provisions of this section must be assessed a fee of Fifty and No/100 Dollars (\$50.00); however the licensing authority shall not record the violation against person's driving record unless the person was the driver of the motor vehicle at the time that the violation occurred.
2. Subsection 1 does not apply to a public conveyance that has been commercially chartered for group use, any passenger for compensation in a for-hire motor vehicle, or a privately owned motor vehicle operated by a person in the course of that person's usual employment transporting passengers at the employer's direction. This subsection does not authorize possession or consumption of an alcoholic beverage by the operator of any motor vehicle described in this subsection while upon a public highway or in an area used principally for public parking.

9.0932 Permitting Unauthorized Minor to Drive

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

9.0933 Permitting Unauthorized Person to Drive

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

ARTICLE 10 - Pedestrians' Rights and Duties

9.1001 Pedestrian Obedience to Traffic Control Devices and Traffic Regulations

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

1. A pedestrian shall obey the instructions of any official traffic control device specially applicable to him, unless otherwise directed by a police officer.
2. Pedestrians are subject to traffic-control and pedestrian-control signals as provided for in 9.0403.

9.1002 Pedestrians' Right-of-way in Crosswalks

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

1. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
2. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
3. Subsection 1 of this section does not apply under the conditions stated in subsection 2 of Section 9.1003.
4. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the highway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

9.1003 Crossing at other than Crosswalks

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

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

9.1004 Drivers to Exercise Due Care

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

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

9.1005 Pedestrians to Use Right Half of Crosswalks

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

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

9.1006 Pedestrians on Roadways

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

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

9.1007 Pedestrians' Right-of-Way on Sidewalks

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

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

9.1008 Pedestrians Yield to Authorized Emergency Vehicles

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

1. Upon the immediate approach of an authorized emergency vehicle making use of an audible signal by bell, siren, or exhaust whistle and displaying a visible flashing revolving, or rotating blue, white or red light, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.
2. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

9.1009 Blind Pedestrians' Right-of-way

The provisions of North Dakota Century Code Section 39-10-33.3 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The driver of a vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog.

9.1010 Pedestrians Under Influence of Alcohol or Drugs

The provisions of North Dakota Century Code Section 39-10-33.4 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

A pedestrian who is under the influence of alcohol or any drug to a degree which renders the pedestrian a hazard may not walk or be upon a roadway.

9.1011 Bridge and Railroad Signals

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

No pedestrian may pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

9.1012 Pedestrians Soliciting Rides or Business

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

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

ARTICLE 11 – Regulations for Motorcycles

9.1101 Traffic Laws Apply to Persons Operating Motorcycles or Motorized Bicycles

The provisions of North Dakota Century Code Section 39-10.2-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Every person operating a motorcycle or motorized bicycle is granted all of the rights and is subject to all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter and except as to those provisions of these ordinances which by their nature can have no application. For purposes of this chapter, the term “motorcycle” means motorcycles and motorized bicycles.

9.1102 Riding on Motorcycles

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

1. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator may not carry any other person nor may any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if

designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.

2. A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.
3. No person may operate a motorcycle while carrying any package, bundle or other article which prevents the person from keeping both hands on the handlebars.
4. No operator may carry any person, nor may any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

9.1103 Operating Motorcycles on Roadways Laned for Traffic

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

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

9.1104 Clinging to Other Vehicles

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

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

9.1105 Footrests

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

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

9.1106 Equipment for Motorcycle Riders

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

1. No person under the age of eighteen years may operate or ride upon a motorcycle unless protective headgear, which complies with standards established by the North Dakota Department of Transportation, 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 does not apply to persons riding within an enclosed cab or on a golf cart.
3. No person may operate a motorcycle if a person under the age of eighteen (18) years is a passenger upon that motorcycle and is not wearing protective headgear as provided in subsection 1.

9.1107 Other Applicable Law

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

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

ARTICLE 12 – Regulations for Bicycles

9.1201 Effect of Regulations

1. It is a violation of this ordinance for any person to do any act forbidden or fail to perform any act required in this article. Any person who violates any of the provisions of this article may be assessed a fee not to exceed five dollars (\$5.00).
2. The parent of any child and the guardian of any ward may not authorize or knowingly permit any such child or ward to violate any of the provisions of this ordinance.
3. These regulations applicable to bicycles apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. (Source: North Dakota Century Code Section 39-10.1-01)

9.1202 Traffic Ordinances Apply to Persons Riding Bicycles

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

9.1203 Obedience to Traffic Control Devices

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

9.1204 Riding on Sidewalks

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

9.1205 Riding on Roadways and Bicycle Paths

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

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

9.1206 Clinging to Vehicles

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

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

9.1207 Carrying Articles

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

No person operating a bicycle may carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

9.1208 Lamps and other Equipment on Bicycles

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

1. Every bicycle when in use at nighttime must be equipped with a lamp on the front which emits a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type approved by the North Dakota Department of transportation. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
2. Every bicycle must be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

9.1209 Riding on Bicycles

The provisions of North Dakota Century Code Section 39-10.1-03 and all subsequent amendments shall be and hereby incorporated by reference in this ordinance.

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

9.1210 Parking

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

9.1211 Cycle Racing Prohibited

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

9.1212 Point System Not Applicable

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

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

9.1213 License Required

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

9.1214 License Application – Penalty

Application for a bicycle license shall be made upon a form provided by the City and shall be made to the chief of police. An annual fee to be fixed by resolution of the city council shall be paid to the City before each license, or renewal thereof, is granted. All licenses are due January first of each year and delinquent April first of each year. The owner of a bicycle purchased after January first of any year shall apply for a license within ninety days from the date of purchase. Failure to pay the license fee within the time prescribed in this section subjects the owner to a penalty of \$20.00 or the taking up of the bicycle, which may be held until license fee and penalty are paid.

9.1215 Issuance of License

1. The chief of police, upon receiving proper application therefore, is authorized to issue a bicycle license which shall be effective until the next succeeding first day of June, regardless of the time of issuance.

2. The chief of police shall not issue a license for any bicycle when he knows or has reasonable grounds to believe that the applicant is not the owner of, or entitled to the possession of such bicycle.
3. The chief of police shall keep a record of the number of each license, the date issued, and a record of all bicycle license fees collected.

9.1216 Renewal of License

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

9.1217 Revocation of License

The municipal judge, upon application of the chief of police, may revoke any license issued hereunder, after hearing thereon, notice of which hearing shall be given to the licensee at least two (2) days before such hearing. A license may be revoked for any fraud or false representation in obtaining the same, for any violation of terms of this ordinance, and for the violation of any ordinance of this City or the laws of the State of North Dakota.

9.1218 Bicycle may be Impounded by Police

Any bicycle left abandoned upon the streets of the City and picked up by the city police shall be held by the police department and a \$20.00 pickup fee shall be charged. If not licensed, the owner shall purchase a current year's license in addition to the pickup fee before the bicycle is returned to the owner.

ARTICLE 13 – Angle Parking

9.1301 Angle Parking

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

9.1302 Angle Parking – Where

Angle parking shall also be permitted on the following streets: None.

9.1303 Close to Curb

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

9.1304 Method of Parking - Penalty

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

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

9.1401 Parking Prohibited - All Times

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

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

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

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

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

9.1403 Officers Authorized to Remove Illegally Stopped Vehicles

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

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

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

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

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

9.1404 Stopping, Standing or Parking Prohibited in Specified Places

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

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

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within ten (10) feet of a fire hydrant;
5. On a crosswalk;
6. Within ten (10) feet of a crosswalk at an intersection;
7. Within fifteen (15) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within fifteen (15) feet of points on the curb immediately opposite the ends of a safety zone, unless the North Dakota Department of Transportation or the City indicates a different length by signs or markings;
9. Within fifteen (15) feet of the nearest rail of a railroad crossing;
10. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted;
11. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
or
14. At any place where official signs prohibit stopping.

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

9.1405 Additional Parking Regulations

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

1. Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway must be so stopped or parked with the right-hand wheels of such vehicle parallel to and within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.
2. Except where otherwise provided by ordinance, every vehicle stopped or parked upon a one-way roadway must be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve (12) inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.
3. The City may permit angle parking on any roadway, except that angle parking is not permitted on any federal-aid or state highway without first obtaining the written authorization of the director of the North Dakota Department of Transportation.

4. The North Dakota Department of Transportation with respect to highways under its jurisdiction may place official traffic-control devices prohibiting or restricting the stopping, standing or parking of vehicles on any highway where in its opinion such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person may stop, stand or park any vehicle in violation of the restrictions indicated by such devices.

9.1406 Stopping - Parking - Certain Purposes Prohibited

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

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

9.1407 Stopping - Parking - Congested - Hazardous Places

The city engineer or other person designated by the governing body is hereby authorized to determine and designate by proper signs, places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

When official signs are erected at hazardous or congested places as authorized herein, no person may stop, stand or park a vehicle in any such designated place.

9.1408 Stopping - Parking - In Alleys

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

9.1409 Parking Adjacent to Schools

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

9.1410 Stopping - Parking - Over 4 Hours

It shall be unlawful for anyone to park or leave standing on any public street or highway in the City any vehicle for a period longer than four (4) hours consecutively, provided this section shall not include any area where a shorter time is provided for parking. Parking is prohibited upon public streets except those areas designated by action of the City Council and properly signed to identify areas and conditions where parking on public streets is allowed.

9.1411 Parking Privileges for Mobility-Impaired - Certificate - Revocation

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

1. Any mobility-impaired person who displays prominently upon an automobile parked by that person or under that person's direction and for that person's use, a distinguishing certificate or insignia

for mobility-impaired persons issued by the North Dakota Department of Transportation shall be entitled to courtesy in the parking of the automobile. Provided, however, that the City may prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic during morning and afternoon rush hours, and the privileges extended to such impaired persons do not apply on streets or highways where and during such times as parking is prohibited.

2. A mobility-impaired person as used in this section includes any person who uses portable oxygen; requires personal assistance or the use of crutches, a wheelchair, or a walker to walk two hundred feet without rest; is restricted by cardiac, pulmonary or vascular disease from walking two hundred feet without rest; has a forced expiratory volume of less than one liter for one second or an arterial oxygen tension of less than sixty millimeters to mercury on room air while at rest and is classified III or IV by standards for cardiac disease set by the American Heart Association; or has an orthopedic, neurological or other medical condition that makes it impossible for the person to walk two hundred feet without assistance or rest.

3. If a law enforcement officer finds that a mobility-impaired certificate or insignia is being improperly used, the officer may report to the director of the North Dakota Department of Transportation. Any person who is not mobility-impaired and who exercises the privileges granted a mobility-impaired person under subsection 1 shall be guilty of an infraction.

4. Whenever any public or private entity designates parking spaces for use by motor vehicles operated by mobility-impaired persons, those reserved spaces must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, the space reserved must be indicated by an official sign approved by the director of the North Dakota Department of Transportation. The City may enforce the provisions of this subsection in any parking lot or parking facility that is generally open to the public, whether publicly or privately owned.

5. A person may not stop, stand or park any vehicle in any designated parking space which is reserved for the mobility-impaired unless the vehicle displays a mobility-impaired identification certificate or insignia issued by the director of the North Dakota Department of Transportation. For a violation of this subsection, there will be a fee in the amount of one hundred dollars (\$100.00).

ARTICLE 15 - Reserved Parking Areas

9.1501 Reserved Parking Areas

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

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

ARTICLE 16 - Time Limit Parking Zones

9.1601 Time Limit Parking Zones

When signs are erected giving notice thereof, no person, firm or corporation shall park or leave standing, either attended or unattended any motor vehicle for more than the amount of time posted.

The city engineer or authorized person may establish time parking zones from time to time in such places as they determine, or as the governing body shall specifically designate, to promote the greatest benefit and convenience to the public and the best use of the street areas.

ARTICLE 17 - Equipment of Vehicles

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

1. Every motor vehicle shall be equipped with a windshield. No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows which obstructs the driver's clear view of the highway or any intersection highway.

2. The windshield on every motor vehicle must be equipped with a device for cleaning rain, snow or other moisture from the windshield, which shall be so constructed as to be controlled or operated by the driver of the vehicle.

3. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

4. A person may not operate a motor vehicle with any object or any material displayed, affixed or applied on the front windshield or on any side window where that material alters the color or reduces the light transmittance, or reduces the clear and unobstructed view through the windshield or window. This subsection does not apply to windows behind the driver or to tinted windows or windshields in compliance with the Federal Motor Vehicle Safety Standards.

9.1702 Child Restraint Devices - Evidence

1. If a child, under four years of age, is present in any motor vehicle, that motor vehicle must be equipped with at least one (1) child restraint system for each such child. The child restraint system must meet the standards adopted by the United States Department of Transportation for those systems (49 CFR 571.213). While the motor vehicle is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. If a child who is at least four and at most seventeen years of age is present in a motor vehicle, unless properly secured in an approved child restraint system, the child must be buckled in a seatbelt whenever the car is moving. Use of child restraint systems and seatbelts is not required in motor vehicles that were not equipped with seatbelts when manufactured.

2. Violation of this ordinance is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation. (Source: North Dakota Century Code Section 39-21-41.2)

9.1703 Use of Safety Belts - Enforcement

Subject to the limitations of this section and section 39-21-41.5, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or seatbelt; to drivers of implements of husbandry; to operators of farm vehicles; to rural mail carriers while on duty delivering mail; to an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician states in a signed writing the nature of the condition and the reason restraint is inappropriate; or when all front seat safety belts are in use by other occupants. A physician who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability.

A peace officer may not issue a citation for a violation of this section unless the officer lawfully stopped or detained the driver of the motor vehicle for another violation. (Source: North Dakota Century Code Sections 39-21-41.4, 41.5)

9.1704 Drawbar or Connection Between Vehicles - Precautions Required

The drawbar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, shall be of such design, strength and construction so as to prevent the unintentional uncoupling of the vehicles. (Source: North Dakota Century Code Section 39-21-44.2)

9.1705 Modification of Motor Vehicle

Except as otherwise provided in this ordinance, a person may not operate upon a public highway a motor vehicle of a type required to be registered under the laws of this state with a weight of seven thousand (7,000) pounds (3175.14 kilograms) or less with alterations or changes from the manufacturer's original design of the suspension, steering or braking system of the motor vehicle. The weight must be computed on the basis of the unmodified and unloaded weight of the motor vehicle, and without regard to any ballast that may be placed in the vehicle. As to bumpers, motor vehicle height and permitted modifications, the following requirements also apply:

1. The motor vehicle must be equipped with front and rear bumpers.
2. The maximum body height permitted for a motor vehicle is forty-two (42) inches (106.68 centimeters). Measurement of body height is made from a level ground surface to the floor of the cargo area.
3. The maximum bumper height permitted is twenty-seven (27) inches (68.58 centimeters). Measurement of bumper height is made from a level ground surface to the highest point on the bottom of the bumper.
4. The vehicle may be modified in accordance with the following:
 - a. Any modifying equipment must meet specialty equipment marketing association standards.
 - b. If tires placed on a motor vehicle have a diameter greater than that of the tires on the motor vehicle as manufactured, those tires must comply with Department of Transportation requirements.
 - c. The maximum outside diameter permitted for tires is forty-four (44) inches (111.76 centimeters).
 - d. A horizontal drop bumper may be used to comply with the bumper height requirement of subsection 3. The horizontal bumper must:
 - i. Be at least three (3) inches (7.62 centimeters) in vertical width;
 - ii. Extend the entire horizontal body width; and
 - iii. Be horizontal, load bearing and attached to the vehicle frame to effectively transfer impact when engaged.
 - e. The maximum lift permitted in the suspension system is four (4) inches (10.16 centimeters).
5. A person charged with violating this ordinance has the burden of proceeding to show that the modifications are permitted under this section.
6. Vehicles owned by law enforcement agencies, the military, fire fighting agencies and ambulances may be modified without regard to this ordinance. (Source: North Dakota Century Code Section 39-21-45.1)

9.1706 Scope and Effect of Equipment Requirements - Penalty

1. It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which the actor knows to be in such unsafe condition as to endanger any person, or which the actor knows does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter, or which the actor knows is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this ordinance. Unless otherwise specifically provided in this chapter or in section 39-06.1-08 or 39-06.1-09 of the North Dakota Century Code, any person who, in violation of this ordinance, drives, or any owner who causes or knowingly permits to be driven upon a highway, any vehicle or combination of vehicles which that person knows is unsafe or improperly equipped is guilty of an infraction.

2. Nothing contained in this ordinance may be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

3. The provisions of this ordinance with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or farm tractors except as specifically made applicable.

4. The provisions of this ordinance with respect to equipment required on vehicles do not apply to motorcycles or motor-driven cycles, except as specifically made applicable.

5. The provisions of this ordinance do not apply to vehicles moved solely by human power, except as specifically made applicable. (Source: North Dakota Century Code Section 39-21-46)

9.1707 Alteration of Odometers or Other Mileage Recorders - Penalty

A person may not willfully, as defined in Section 12.1-02-02, North Dakota Century Code, alter a motor vehicle odometer or other mileage recorded, hour meter on tachometer or other hour recorded for the purpose of deceiving another. Violation of this section is a class C felony if the person has previously been convicted of violating this section, or if the person has violated this section with respect to more than one vehicle, and a class B misdemeanor in all other cases. (Source: North Dakota Century Code Section 39-21-51)

ARTICLE 18 - Motorcycle Equipment

9.1801 Purpose

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

It is the purpose of this chapter to establish performance and equipment requirements for the manufacture, sale and safe operation of a motorcycle upon public highways, and to furnish administrators with a guide for registration eligibility and continued conformity as related to motorcycles. (Source: North Dakota Century Code Section 39-27-01)

9.1802 Manufacturer's or Distributor's Certification

1. The manufacturer or distributor shall provide a certification of the fact that a motorcycle or class of motorcycles is designed and manufactured for use upon public highways and complies with the performance and equipment requirements of this chapter, and the rules and regulations promulgated hereunder.

2. The certificate shall be incorporated on the manufacturer's statement of origin (MSO) upon transfer of vehicle ownership. (Source: North Dakota Century Code Section 39-27-02)

9.1803 Frame-Chassis Requirements

1. The motorcycle frame-chassis, including the suspension components and engine mountings, must be of substantial construction, capable of supporting the combined weight of all vehicle components and riders for which the vehicle is designed, and withstand normal road shocks and operational stresses without constituting a hazard to the riders or other users of the highway.

2. The wheelbase may not be less than forty (40) inches (101.6 centimeters). (Source: North Dakota Century Code Section 39-27-03)

9.1804 Brakes

1. Every motorcycle must have either a split service brake system or two (2) independently actuated service brake systems in accordance with rules adopted by the director of the North Dakota Department of Transportation. Brakes must act on the front and rear wheels.

2. Every motorcycle must meet the requirements for brake system effectiveness, fade and partial systems as specified in rules adopted by the director of the North Dakota Department of Transportation.

3. All linkage, cables, pivots and bearings must be free of excess (high) friction, with the front wheel brake cable so located and secured as not to become pinched between fork and frame members when wheel is turned completely to the right or left.

4. Brake actuating devices must be in an accessible location, unencumbered by vehicle components, and so positioned that adequate leverage and safe operation is ensured. Service brake system controls and operation requirements must be in accordance with rules adopted by the director of the North Dakota Department of Transportation. A suitable mechanism shall be provided for the purpose of automatically returning the actuating devices to normal position upon release.

5. Motorcycle brakes must be capable of being adjusted automatically or manually with means provided to prevent unintentional adjustment.

6. Each three-wheel motorcycle must be equipped with a parking brake of a friction type with a solely mechanical means to retain engagement. (Source: North Dakota Century Code Section 39-27-04)

9.1805 Brakes on Motor-Driven Cycles

The City may require an inspection of the brake on any motor-driven cycle and may disapprove any brake which is not so designed or constructed as to ensure reasonable and reliable performance in actual use. (Source: North Dakota Century Code Section 39-27-04.1)

9.1806 Tires, Wheels and Rims

1. Motorcycle tires must be of pneumatic design with a minimum width of two and twenty-five hundredths (2 25/100) inches (57.15 millimeters) designed for highway use.

2. Tires on two-wheel motorcycles and the front tire on a three-wheel motorcycle must have a load capacity rating at least equal to their respective gross axle weight ratings (GAWR). Each tire on the rear axle of a three-wheel motorcycle must have a load capacity rating at least equal to one-half (1/2) the rear axle gross axle weight rating (GAWR).

3. Wheel rim diameters may not be less than ten (10) inches (25.4 centimeters) and shall otherwise comply with applicable state standards, as promulgated by the registrar of motor vehicles. Two-wheel motorcycles using low pressure tires are exempt from this subsection, if the inflated height of the tire is twenty (20) inches (508 millimeters) or greater.

(Source: North Dakota Century Code Section 39-27-05)

9.1807 Steering and Suspension Systems

1. Motorcycle steering and suspension systems must be designed and engineered to provide the operator with the means of safely controlling vehicle direction under all maneuvers required for normal and safe operation.

2. The rear wheel of a two-wheel motorcycle must track behind a front wheel within one (1) inch (2.54 centimeters) with both wheels in a vertical plane when the vehicle is operating on a straight course. On a three-wheel motorcycle, the two wheels mounted on the rear axle must have a wheel track distance no less than thirty (30) inches (76.2 centimeters) and the mid-point of the rear wheel track distance shall be within one (1) inch (2.54 centimeters) of the front wheel track when the vehicle is proceeding on a straight course. The vehicle must be equipped with an adjustment feature that will provide proper wheel tracking.

3. The steering head must be provided with a bearing or similar device that will allow the steering shaft to turn freely in rotational motion only.

4. All motorcycles, except three-wheel motorcycles, must meet the following specifications in relationship to front wheel geometry:

Maximum Rake: 45 degrees - Trail: 14 inches
(35.56 centimeters) positive

Minimum Rake: 20 degrees - Trail: 2 inches
(5.08 centimeters) positive

Manufacturer's specifications must include the specific rake and trail for each motorcycle or class of motorcycles and the terms "rake" and "trail" must be defined by rules adopted by the director of the North Dakota Department of Transportation.

5. Handlebars must be of sturdy construction, adequate in size to provide proper leverage for steering and capable of withstanding a minimum force of one hundred (100) pounds (45.36 kilograms) applied to each handgrip in any direction. Handlebar grips must be located no more than fifteen (15) inches (38.1 centimeters) above the unoccupied seat with the handlebars located in a straight-ahead position and shall be capable of vertical adjustment. The handlebars must provide a minimum of eighteen (18) inches (45.72 centimeters) between grip after final assembly.

6. Handlebars must be equipped with handgrips consisting of a material and surface patten to ensure firm, non-slip gripping for the driver.

7. Every motorcycle must be equipped with a suspension system and such suspension system must be applicable to at least the front wheel. The suspension system must be effective in reducing road shock and designed for the purpose of maximizing vehicle stability.

(Source: North Dakota Century Code Section 39-27-06)

9.1808 Fuel Systems

1. All fuel system components, including the tank, pump, tubing, hoses, clamps, etc. must be securely fastened to the motorcycle so as not to interfere with vehicle operation and be leak proof when the vehicle is in its normal operating attitude.

2. Fuel lines must be positioned in a manner to prevent their contact with the engine head, manifold, exhaust system or other high temperature surfaces or moving components. The fuel system must be adequately vented and provided with a fuel shutoff valve located between the fuel supply and the engine.

(Source: North Dakota Century Code Section 39-27-07)

9.1809 Exhaust Systems - Prevention of Noise

Motorcycles must be equipped with an exhaust system incorporating a muffler or other mechanical device for the purpose of effectively reducing engine noise. Cutouts and bypasses in the exhaust system are prohibited. The system must be leak proof and all components must be securely attached to the vehicle and located so as not to interfere with the operation of the motorcycle. Shielding must be provided to prevent inadvertent contact with the exhaust system by the operator or passenger during normal operation. In addition, all motorcycles operating on streets and highways must meet the noise decibel limitations as established by the Environmental Protection Agency. No person may sell, offer for sale or install any noise suppressing system or device which will produce noise in excess of the maximum allowable decibel limitations of this section.

(Source: North Dakota Century Code Section 39-27-08)

9.1810 Mirrors

Every motorcycle must be equipped with at least one mirror of unit magnification, securely affixed to the handlebar and capable of adjustment within a range that will reflect an image that includes at least the horizon and the road surface to the rear of the motorcycle. Such mirror must consist of a minimum reflective surface of ten (10) square inches (64.52 square centimeters). All mirrors shall not contain sharp edges or projections capable of producing injury.

(Source: North Dakota Century Code Section 39-27-09)

9.1811 Fenders

Each wheel of a motorcycle must be equipped with fenders or otherwise covered by the body configuration. Fenders must be securely mounted and of sufficient size and strength to minimize water or other road surface substances from coming in contact with the vehicle riders, or throwing the road substances unreasonably to the rear of the vehicle. Fender design must be effective in reducing side spray.

(Source: North Dakota Century Code Section 39-27-10)

9.1812 Seat or Saddle

A seat or saddle securely attached to the vehicle must be provided for the use of the operator. The seat or saddle may not be less than twenty-five (25) inches (63.5 centimeters) above a level road surface when measured to the lowest point on top of the seat or saddle cushion with the operator seated in a driving position. The seat or saddle adjustment locking device must prevent relative movement of the seat from its selected and secured position under all normal vehicle operating conditions. (Source: North Dakota Century Code Section 39-27-11)

9.1813 Chain Guard

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

(Source: North Dakota Century Code Section 39-27-12)

9.1814 Vehicle Stand

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

(Source: North Dakota Century Code Section 39-27-13)

9.1815 Glazing

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

1. The glazing material must comply with the standards promulgated by rule of the director of the North Dakota Department of Transportation.
2. The metal support must be of a material which shall bend rather than fragment under impact.
3. Covering material, other than glazing, must be beaded at the edges to prevent fraying.

(Source: North Dakota Century Code Section 39-27-14)

9.1816 Horn

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

(Source: North Dakota Century Code Section 39-27-15)

9.1817 Speedometer and odometer

Every motorcycle must be equipped with a properly operating speedometer and odometer calibrated in miles (kilometers) per hour and miles (kilometers) respectively and must be fully illuminated when the headlamp is activated. (Source: North Dakota Century Code Section 39-27-16)

9.1818 Lighting Equipment

1. Every motorcycle must be equipped with lamps, reflective devices and associated equipment as required by and in compliance with standards promulgated by regulation of the registrar of motor vehicles.
2. A gearbox indicator light, if provided, must be located within the operator's field of vision.
3. A headlamp beam indicator light must be located within the operator's field of vision and illuminated automatically when the high beam of the headlamp is actuated. (Source: North Dakota Century Code Section 39-27-17)

9.1819 Lighting Equipment on Motor-Driven Cycles

The headlamp or headlamps upon every motor-driven cycle must be of the single-beam or multiple-beam type but no either event must comply with the requirements and limitations as follows:

1. Every headlamp or headlamps on a motor-driven cycle must be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred (100) feet (30.48 meters) when the motor-driven cycle is operated at any speed less than twenty-five (25) miles (40.23 kilometers) per hour and at a distance of not less than two hundred (200) feet (60.96 meters) when the motor-driven cycle is operated at a speed of twenty-five (25) or more miles (40.23 or more kilometers) per hour and at a distance of not less than three hundred (300) feet (91.44 meters) when the motor-driven cycle is operated at a speed of thirty-five (35) miles (56.33 kilometers) per hour.
2. In the event the motor-driven cycle is equipped with a multiple-beam headlamp or headlamps the upper beam must meet the minimum requirements set forth in Subsection 1 of Section 39-21-20, North Dakota Century Code, and the lowermost beam shall meet the requirements applicable to the lowermost distribution of light as set forth in Section 2 of Section 39-21-20, North Dakota Century Code.
3. In the event the motor-driven cycle is equipped with a single-beam lamp or lamps the lamp or lamps must be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five (25) feet (7.62 meters) ahead, shall project higher than the level of the center of the lamp from which it comes.

(Source: North Dakota Century Code Section 39-27-17.1)

9.1820 Passenger Seat

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

(Source: North Dakota Century Code Section 39-27-18)

9.1821 Footrests

Footrests must be provided for each designated seating position. Each footrest for a passenger must be so designated and constructed to support a static weight of two hundred fifty (250) pounds (113.40 kilograms) applied at the center of the foot pedal. Footrests must be so located to provide reasonable accessibility for the passenger's feet. Footrests must fold rearward or upward when not in use if the footrest protrudes beyond the width of the handlebars. (Source: North Dakota Century Code Section 39-27-20)

9.1822 Highway Bars

If a motorcycle is so equipped, highway bars must have a maximum width of twenty-six (26) inches (66.04 centimeters); shall be located less than fifteen (15) inches (38.1 centimeters) from the foot controls and may not interfere with the operation of the foot controls.

9.1823 Equipment Approval

All motorcycle lighting devices, electrical systems, brake components, glazing materials and exhaust systems, incorporating a muffler or other mechanical exhaust device, required or optional, must be approved by the North Dakota Department of Transportation before they will be available for use within the state.

(Source: North Dakota Century Code Section 39-27-22)

ARTICLE 19 - Lighted Lamps Required

9.1901 When Lighted Lamps are Required

Subject to exceptions with respect to parked vehicles, every vehicle upon a highway within this state must display lighted lamps and illuminating devices as required in this chapter for different classes of vehicles as follows:

1. At any time from sunset to sunrise, and every farm tractor upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise;
2. At any time when it is raining, snowing, sleeting or hailing or during other adverse driving conditions and these conditions do not render a person or vehicle on the highway clearly discernible at a distance of one thousand (1000) feet (304.8 meters) ahead; or
3. At any other time when visibility is impaired by weather, smoke, fog or other conditions or when there is insufficient light to render a person or vehicle on the highway clearly discernible at a distance of one thousand (1000) feet (304.8 meters) ahead.

Stoplights, turn signals and other signaling devices must be lighted as prescribed for the use of such devices. NDCC 39-21-01.

ARTICLE 20 - Regulating the Kinds and Classes of Traffic on Certain Roads

9.2001 Load Restrictions Upon Vehicles Using Certain Roadways

When signs are erected giving notice thereof, no person may operate any vehicle with a gross weight in excess of the maximum indicated weight at any time upon any street or part of a street so designated.

9.2002 Commercial Vehicles Prohibited from Using Certain Streets

When signs are erected giving notice thereof, no person may operate any commercial vehicle exceeding the maximum indicated gross weight at any time upon any street or part of a street so designated except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the designation of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.

9.2003 Size Restrictions Upon Vehicles Using Certain Highways

When signs are erected giving notice thereof, no person may operate any vehicle exceeding the dimensions specified by such sign or signs at any time upon any street or part of a street so designated.

9.2004 Restrictions Upon Use of Streets by Certain Vehicles

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

9.2005 Trucks not to be operated except under certain conditions

Section 1. DEFINITIONS. For the purpose of this ordinance the following terms, phases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- A. “City” is the City of Reile’s Acres, North Dakota
- B. “Commercial vehicle” shall mean a vehicle designed, maintained, or used primarily for the transportation of property provided, however, that such definition shall not include vehicles designated or titled as $\frac{3}{4}$ -ton or less.
- C. “Truck” shall include every motor vehicle designed, used or maintained primarily for transportation of property.

(Source: Ordinance No. 38; 1992)

9.2006 TRUCKS NOT TO BE OPERATED—EXCEPTIONS

No truck or commercial vehicle exceeding 5-tons registered gross weight shall be operated in the City of Reile’s Acres except that this shall not prohibit:

- A. Such vehicles from operating upon city streets when delivering or picking up materials or merchandise, providing entrance or exit to or from such street is made at the nearest intersection.
- B. The operation of trucks owned or operated by the City of Reile’s Acres; trucks owned or operated by power companies and telephone companies franchised in the City of Reile’s Acres or providing service therein; or trucks owned or operated by any contractor or materials supplier while engaged in the repair, maintenance or construction of streets, street improvements or street utilities within the city.
- C. Trucks making more than one delivery on any one trip may take the most direct route between one delivery and the next.

(Source: Ordinance No. 38; 1992)

9.2007 RESTRICTED USE OF STREETS AND HIGHWAYS

The city, by resolution, may prohibit the operation of vehicles or impose restrictions as to the weight of vehicles upon any street or highway under their jurisdiction or for the maintenance of which they are responsible for a total period not to exceed ninety (90) days in any one calendar year whenever any said street or highway, by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereon reduced. The

city, when enacting any such resolution, shall erect, or cause to be erected and maintained, signs designating the provisions of the resolution at each end of that portion of any street or highway affected thereby, and the resolution shall not be effective until or unless such signs are erected and maintained. In addition, the city may also, by resolution, prohibit the operation of trucks or other commercial vehicles, or impose limitations as to weight thereof, on designated streets and highways, which prohibitions and limitations shall be designated by appropriate signs placed on such streets or highways.

(Source: Ordinance No. 38; 1992)

9.2008 PENALTIES

Violations of this ordinance are non-criminal infractions and shall carry the penalty of paying a fine as is designated hereinafter. The fees required for a non-criminal disposition pursuant to either North Dakota Century Code Section 39-06.1-02 or 39-01.1-03 shall be as follows: A fee of \$20.

(Source: Ordinance No. 38; 1992)

ARTICLE 21 - Criminal Traffic Violations

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

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

1. A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:

- a. That person has an alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.
- b. That person is under the influence of intoxicating liquor.
- c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
- d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.

The fact that any person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section, unless a drug which predominately caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person.

2. A person violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a five-year period, of a class A misdemeanor for a third offense in a five-year period, of a class A misdemeanor for the fourth offense in a seven-year period, and of a class C felony for a fifth or subsequent offense in a seven-year period. The minimum penalty for violating this section is as provided in subsection 4. The court shall take judicial notice of the fact that an offense would be a subsequent offense if indicated by the records of the director or may make a subsequent offense finding based on other evidence.

3. Upon conviction, the court may order the motor vehicle number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded for the duration of the period of suspension or revocation of the offender's driving privilege by the licensing authority. The impounded number plates must be sent to the director of the North Dakota Department of Transportation who must retain them for the period of suspension or revocation, subject to their disposition by the court.

4. A person convicted of violating this ordinance must be sentenced in accordance with this subsection.

- a. For a first offense, the sentence must include both a fine of at least two hundred fifty dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
- b. For a second offense within five years, the sentence must include at least five days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively, or thirty days' community service; a fine of at least five hundred dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program.
- c. For a third offense within five years, the sentence must include at least sixty days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; a fine of one thousand dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program.
- d. For a fourth or subsequent offense within seven years, the sentence must include one hundred eighty days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively and a fine of one thousand dollars.
- e. The execution or imposition of sentence under this section may not be suspended or deferred under subsection 3 or 4 of section 12.1-32-02 of the North Dakota Century Code.
- f. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this subsection.
- g. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. (Source: North Dakota Century Code Section 39-08-01)

9.2102 Prior Offenses

For purposes of this article, Article 9.22, and Chapter 39-20, North Dakota Century Code, a previous conviction does not include any prior violation of Article 9.2101 if the offense occurred prior to July 1, 1981.

(Source: North Dakota Century Code Section 39-08-01)

9.2103 Reckless Driving - Penalty

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

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

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

Except as otherwise herein provided, any person violating the provisions of this section shall be guilty of an offense.

9.2104 Accidents Involving Damage to Vehicle - Penalty

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

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until the driver has fulfilled the requirements of Section 39-08-06 of the North Dakota Century Code. Every such stop must be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances is guilty of an offense.

9.2105 Duty Upon Striking Unattended Vehicle - Penalty

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

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of the vehicle of the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances of the collision. Any person violating this section is guilty of an offense.

9.2106 Duty Upon Striking Fixtures Upon a Highway

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

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the driver's name and address and of the registration number of the vehicle the driver is driving and shall upon request and if available exhibit his operator's or chauffeur's license and shall make report of such accident when and as required in Section 9.0309.

9.2107 Penalty for Driving While License Suspended or Revoked - Impoundment of Vehicle Number Plates - Authority of City

The provisions of North Dakota Century Code Section 39-06-42 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Except as provided in Chapters 39-16 and 39-16.1 and Section 39-06.1-11 of the North Dakota Century Code, any person who drives a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state while that person's license or privilege

so to do is suspended or revoked is guilty of a class B misdemeanor for the first, second or third offense within a five-year period. Any subsequent offense within the same five-year period is a class A misdemeanor.

2. If a suspension or revocation was imposed for violation of Section 39-08-01 of the North Dakota Century Code or equivalent ordinance or was governed by Section 39-06-31 or Chapter 39-20, the sentence must be at least four (4) consecutive days' imprisonment and such fine as the court deems proper. The execution of sentence may not be suspended or the imposition of sentence deferred under Subsection 3 or 4 of Section 12.1-32-02 of the North Dakota Century Code. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.

3. 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. When a period of suspension has been extended under Subsection 5 of Section 39-06-17 of the North Dakota Century Code, the court may order the number plates to be impounded in accordance with this subsection. 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 director of the North Dakota Department of Transportation.

4. The municipal judge may order impoundment of motor vehicle number plates in the manner provided in Subsection 3.

9.2108 Operation of Snowmobiles

1. Definitions:

For the purpose of this article, the following definitions are hereby adopted:

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

2. "Operate" means to ride in or on and control the operation of a snowmobile.

3. "Operator" means every person who operates or is in actual physical control of a snowmobile.

4. "Owner" means a person, other than a lienholder, having the property in or title to a snowmobile entitled to the use or possession thereof.

5. "Person" includes an individual, partnership, corporation, limited liability company, association, the state and its departments, agencies and political subdivisions and any body of persons, whether incorporated or not.

6. "Register" means the act of assigning a registration number to a snowmobile.

7. "Registrar" or "Director" means the director of the Department of Transportation of this state as provided in Section 24-02-01.3 of the North Dakota Century Code.

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, ice or a natural terrain and steered by skis or runners.

(Source: North Dakota Century Code Section 39-24-01)

9.2109 Rules for Operation of Snowmobiles

1. No person may operate a snowmobile upon the roadway, shoulder or inside bank or slope of any road, street or highway in this City except as provided pursuant to this article. No snowmobile shall be operated at any time within the right of way of any interstate highway except for emergency purposes.

2. A snowmobile may make a direct crossing of a street or highway provided:

- a. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
- b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
- c. The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
- d. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

3. No snowmobile may be operated unless it is equipped with at least one (1) headlamp, one tail lamp and brakes, all in working order, which conform to standards prescribed by rule of the director pursuant to the authority vested in the director by state law.

4. The emergency conditions under which a snowmobile may be operated other than as provided by this article shall be such as to render the use of an automobile impractical under such conditions at such period of time and location.

5. It is unlawful for any person to drive or operate any snowmobile in the following ways which are declared to be unsafe and a public nuisance:

- a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
- b. In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
- c. While under the influence of intoxicating liquor or a drug as defined in Section 39-24.1-01 of the North Dakota Century Code, or a combination thereof.
- d. Without a lighted headlamp and tail lamp when required for safety.
- e. In any tree nursery or planting in a manner which damages or destroys growing stock.
- f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the snowmobile exhaust system.
- g. Upon any private land when the private land is posted by the owner or tenant prohibiting trespassing. The name of the person posting the land must appear on each sign in legible characters. The posted signs shall be readable from the outside of the land and shall be placed conspicuously at a distance of not more than eight hundred eighty (880) yards (804.68 meters) apart, provided further that as to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes posting of all the enclosed lands.

6. It is unlawful for any person to operate a snowmobile pursuant to Chapter 39-24 of the North Dakota Century Code without having in possession a valid driver's license or permit, except as provided by section 39-24-09.1.

7. When snowmobiles are operated within the right of way of any road, street or highway of this state pursuant to this chapter, during times or conditions that warrant the use of lights, such snowmobiles shall travel in the same direction as the direction of motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the snowmobile.

8. It is unlawful for any person to operate a snowmobile within a highway right of way as defined in subsection 37 of section 24-01-01.1 of the North Dakota Century Code between April 1 and November 1 of any year.

9. No snowmobile may be operated at any time within the right of way of any highway within this state while towing a sled, skid or other vehicle, unless the sled, skid or other vehicle is connected to the snowmobile by a hinged swivel and secure hitch.

10. No person under the age of eighteen years may operate, ride or otherwise be propelled on a snowmobile unless the person wears a safety helmet meeting United States department of transportation standards.

9.2110 Operation of Motor Vehicle, Tractor or Other Vehicle Prohibited on Flood Protective Works - Exception - Penalty

1. Unless authorized by the authority in charge thereof, no person shall operate a motor vehicle, tractor or other vehicle upon or across any flood protective works, including but not limited to, any dike or flood protective works constructed by a state or federal agency or by any municipality or local subdivision of the state.

2. Any person violating the provisions of this section shall be liable to any person suffering injury as a result of the violation; and in addition, shall be guilty of a class B misdemeanor.

(Source: North Dakota Century Code Section 30-10-65)

9.2111 Driving Without a License

No person shall drive any motor vehicle upon a highway in this City unless such person has a valid license as an operator, or is expressly exempted from licensing requirements, by the laws of this state.

9.2112 License to be Carried and Exhibited on Demand

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

Every licensee shall have the licensee's operator's license or permit in the licensee's immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of any district court, municipal court, a patrolman, peace officer or a field deputy or inspector of the State Highway Department. However, no person charged with violating this section may be convicted or assessed any court costs if the person produces in court, to the chief of police or in the office of the arresting officer an operator's license or permit theretofore issued to that person and valid and not under suspension, revocation or cancellation at the time of the person's arrest.

9.2113 Penalty

The provisions of North Dakota Century Code Section 39-12-21 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Any driver of a vehicle who refuses to stop and submit the vehicle and load to a weighing when directed to do so by any police officer or any agent of this state having police powers relating to motor vehicles is guilty of an offense.

ARTICLE 22 - Disposition of Traffic Offenses

9.2201 Halting Person for Violating Traffic Regulations - Duty of Officer Halting

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

Whenever any person is halted for the violation of any of the provisions of North Dakota Century Code Chapters 39-01 through 39-13, 39-18, 39-21 and 39-24, or of equivalent City ordinances, the officer halting that person, except as otherwise provided in Section 39-07-09 and Section 39-20-03.1 or 39-02-03.2 may:

1. Take the name and address of the person;
2. Take the license number of the person's motor vehicle; and
3. Issue a summons or otherwise notify that person in writing to appear at a time and place to be specified in the summons or notice.

A halting officer employed by any political subdivision of the state may not take a person into custody or require that person to proceed with the officer to any other location for the purpose of posting bond, where the traffic violation was a non-criminal offense under Section 39-06.1-02. The officer shall provide the person with an envelope for use in mailing the bond.

9.2202 Hearing - Time - Promise of Defendant to Appear - Failure to Appear - Penalty

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

The time to be specified in the summons or notice provided for in 9.2201 must be within thirty-five (35) days after the issuance of the summons or notice or earlier if so ordered by the municipal judge or if the person halted demands an earlier hearing. If the person halted desires, the person may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four (24) hours. The hearing must be before the municipal court. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, such officer shall release the person from custody. Any person refusing to give a written promise to appear must be taken immediately by the halting officer before the nearest or most accessible magistrate, or to such other place or before such other person as may be provided by a statute or ordinance authorizing the giving of bail. Any person willfully violating the person's written promise to appear is guilty of an offense, regarding of the disposition of the charge upon which the person originally was halted. The time limitations for a hearing as provided by this section do not preclude a recharging of the alleged violation if the person being charged receives a new summons or notice subject to the provisions of this section.

9.2203 Offenses Under Which Person Halted May Not be Entitled to Release Upon Promise to Appear

The provisions of North Dakota Century Code Section 39-07-09 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The provisions of Section 9.2201 do not apply to a person if:

1. The halting officer has good reason to believe the person guilty of any felony or if the person is halted and charged with any of the offenses listed in Section 39-06.1-05 of the North Dakota Century Code, but not listed in subsection 2; or

2. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release that person upon a promise to appear and if the person has been halted and charged with any of the following offenses

- a. Reckless driving.
- b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
- c. Driving while license or driving privilege is suspended or revoked for violation of NDCC Section 39-06-42, or an equivalent ordinance.
- d. Operating a modified vehicle.
- e. Driving without liability insurance in violation of NDCC Section 39-08-20.
- f. Failing to display a placard or flag, in violation of any rule implementing NDCC Section 39-21-22, while transporting explosive or hazardous materials.
- g. Operating an unsafe vehicle in violation of subsection 1 of NDCC Section 39-21-45.

Any person cited, in accordance with the provisions of Sections 39-07-07 and 39-07-08 of the North Dakota Century Code, for a traffic violation under state law or municipal ordinance, other than an offense listed in Section 39-06.1-05 of the North Dakota Century Code, is deemed to be charged with a non-criminal offense. The person may appear before the designated official and pay the statutory fee for the violation charged at or before the time scheduled for a hearing. If the person has posted bond in person or by mail, the person may forfeit bond by not appearing at the designated time. If the person appears at the time scheduled in the citation, the person may make a statement in explanation of the person's action, and the official may at that time waive, reduce or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, the person is deemed to have admitted the violation and to have waived his right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the official designated in the citation must be identical to the statutory fee established by Section 39-06.1-06 of the North Dakota Century Code. Within ten (10) days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the licensing authority:

1. Admission of the violation; and

2. In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine (9) miles (14.8 kilometers) per hour and the miles (kilometers) per hour by which the speed limit was exceeded.

This section shall not be construed as allowing a halting officer to receive the statutory fee or bond, unless he is otherwise authorized by law to do so. (Source: North Dakota Century Code Section 30-06.1-02)

9.2205 Administrative Hearing - Procedures - Appeals - Stay Orders

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

1. A person cited for a traffic violation, other than an offense listed in Section 39-06.1-05 of the North Dakota Century Code, who does not follow one of the procedures set forth in Section 39-06.1-02, may request a hearing on the issue of commission of the violation charged. The hearing must be held at the time scheduled in the citation, or at the time scheduled in response to the person's request or at some future time, not to exceed ninety (90) 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 39-06.1-05 of the North Dakota Century Code, has requested a hearing on the issue of the commission of the violation charged and 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 had committed the traffic violation, the official shall notify the licensing authority of that fact, and whether the person was driving more than nine (9) 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 (10) days of the date of the hearing. The fact that a person has admitted a violation, or has, in any proceeding, been found to have committed a violation, may not be referred to in any way, nor be admissible as evidence in any court, civil, equity or criminal, except in an action or proceeding involving that person's driving license or privilege.

5. a. If a person is aggrieved by a finding that he committed the violation, the person may, without payment of a filing fee, appeal that finding to the district court for trial anew. If, after trial in the appellate court, the person is again found to have committed the violation, there shall be no further appeal. Notice of appeal under this subsection must be given within thirty (30) days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that the official adjudges that a violation has been committed. Otherwise, notice of appeal shall be in writing and filed with the official, and a copy of the notice must be served upon the prosecuting attorney. An appeal taken under this subsection may not operate to stay the reporting requirement of subsection 4, nor to stay appropriate action by the licensing authority upon receipt of that report.

b. The appellate court upon application by the appellant may:

i. Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty (120) days;

ii. Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one hundred twenty (120) days; or

iii. Deny the application.

An application for a stay or temporary certificate under this subdivision must be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the licensing authority may charge a fee of two dollars (\$2.00). Any order granting a stay or a temporary certificate must be forwarded forthwith by the Clerk of Court to the licensing authority, which shall issue a temporary certificate in accordance with the order in the manner provided by law. A court may 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 is guilty of a traffic violation and must be assessed a fee of twenty dollars (\$20.00).

- c. If the person charged is found not to have committed the violation by the appellate court, the Clerk of Court shall report that fact to the licensing authority immediately. If an appeal under this subsection is from a violation of a City ordinance, the city attorney shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.

6. The state or the City, as the case may be, must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection 5, the court and parties shall follow, to the extent applicable, the North Dakota rules of Civil Procedure. If on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.

7. As used in Sections 39-06.1-02, 39-06.1-03 and 39.06.1-04 of the North Dakota Century Code, the word "official" means a municipal judge or a magistrate or other qualified person appointed by the presiding judge of the judicial district, to serve as such official for all or a specified part of the judicial district.

9.2206 Failure to Appear, Pay Statutory Fee, Post Bond - Procedure - Penalty

The provisions of North Dakota Century Code Section 39-06.1-04 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

If a person fails to choose one of the methods of proceeding set forth in Sections 9.2204 or 9.2205, the person must be deemed to have admitted to commission of the violation charged, and the official having jurisdiction shall report such fact to the licensing authority within ten (10) days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is a class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

9.2207 Offenses Excepted

The provisions of North Dakota Century Code Section 39-06.1-05 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The procedures authorized under Sections 39-06.1-02 and 39.06.1-03 of the North Dakota Century Code may not be utilized by a person charged with one of the following offenses:

1. Driving or being in actual physical control of a vehicle in violation of Section 9.2101.
2. Reckless driving or aggravated reckless driving in violation of Section 9.2103.
3. A violation of Chapter 12.1-16 of the North Dakota Century Code resulting from the operation of a motor vehicle.
4. Leaving the scene of an accident in violation of Sections 39-08-04, 39-08-05, 4, 39-08-07, 39-08-08 of the North Dakota Century Code, or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of Section 39-06-42 of the North Dakota Century Code, or an equivalent ordinance.
6. Violating subdivisions b and c of subsection 5 of Section 39-24-09 of the North Dakota Century Code.

7. Operating a modified motor vehicle in violation of Section 39-21-45.1 of the North Dakota Century Code.

8. Driving without liability insurance in violation of Section 39-08-20 of the North Dakota Century Code.

9. Failing to display a placard or flag, in violation of any rule implementing Section 39-21-44 of the North Dakota Century Code, while transporting explosive or hazardous materials.

10. Operating an unsafe vehicle in violation of subsection 1 of Section 39-21-46 of the North Dakota Century Code.

9.2208 Amount of Statutory Fees

The provisions of North Dakota Century Code Section 39-06.1-06 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The fees required for a criminal disposition pursuant to either Section 9.2204 or Section 9.2205 shall be as follows:

1. For a nonmoving violation as defined in Section 9.2209, a fee of any amount not to exceed twenty dollars (\$20.00).

2. For a moving violation as defined in Section 9.2210, a fee of twenty dollars (\$20.00), except no fee may be imposed for a violation of Section 9.1702.

3. For a violation of Section 9.0502 a fee established as follows:

Miles Per Hour Over
Lawful Speed Limit

Fee

1 - 5	\$ 5.00
6 - 10	\$ 5.00 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10.00 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15.00 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25.00 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 40.00 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70.00 plus \$3/each mph over 35 mph over limit
46 +	\$100.00 plus \$5/each mph over 45 mph over limit

4. For a violation of Section 9.0501, or an ordinance defining careless driving, a fee of thirty dollars (\$30.00).

5. For a violation of Section 9.0509, or an ordinance defining care required in driving, a fee of not less than ten dollars (\$10.00) nor more than thirty dollars (\$30.00).

6. For a violation of Section 9.1703, a fee not to exceed twenty dollars (\$20.00).

9.2209 “Nonmoving Violation” Defined

The provisions of North Dakota Century Code Section 39-06.1-08 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

For the purpose of 9.2208, a “nonmoving violation” means Sections 9.0924, 9.0932, 9.0933 or the provisions of ARTICLE 13, ARTICLE 14, ARTICLE 15 OR ARTICLE 16.

9.2210 “Moving Violation” Defined

The provisions of North Dakota Century Code Section 39.06.1-09 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

For the purpose of 9.2208, a “moving violation” means a violation of ARTICLE 5, ARTICLE 6, ARTICLE 9, ARTICLE 11, ARTICLE 17, ARTICLE 18, ARTICLE 19 OR ARTICLE 21, except those sections for which a specific penalty is provided and those sections which are specifically listed in 9.2009.

9.2211 General Penalty for Violation of Chapter

The provisions of North Dakota Century Code Section 39-07-06 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Any person violating any of the provisions of this chapter for which another criminal penalty is not provided specifically is guilty of an infraction as defined in Section 12.1-32-01 of the North Dakota Century Code. As used in this section, the phrase “another criminal penalty” includes provision for payment of a fixed fee for violating another section of this chapter but does not include other administrative sanctions which may be imposed.

9.2212 Notification of Parents or Guardians of Juvenile Traffic Offenders

The municipal judge or municipal court clerk shall notify the parent or guardian of any juvenile appearing before the court on a traffic offense of the charge as contained in the citation, the penalty attached to the offense and the time and place of any court hearing on the matter.

ARTICLE 23 - Sections not Adopted

The sections of Title 39 of the North Dakota Century Code not expressly adopted in ARTICLE 1 through ARTICLE 22, inclusive, are not adopted by reference.

ARTICLE 24 - Filing of Ordinance

Incident to the adoption of certain portions of Title 39 of the North Dakota Century Code by reference, a copy of the text of the adopted code shall be filed in the office of the city auditor as required by North Dakota Century Code Section 40-05-01(1) for use and examination by the public.

ARTICLE 25 - Adoption of Amendments by Reference

The adoption of certain portions of Title 39 by reference shall be construed to incorporate such amendments as may be made therein from time to time, and such copy of the adopted portions to Title 39 filed as required in ARTICLE 24 shall at all times be kept current in the office of the city auditor of this City.

ARTICLE 26 - Severability Clause

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

ARTICLE 27 - Penalties

Any person who is convicted of violating or of failing to comply with any of the provisions of this ordinance may be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not to exceed thirty (30) days, or both.

CHAPTER TEN

HEALTH

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CHAPTER TEN

HEALTH

ARTICLE 1 – Board of Health

10.0101 Members

The Board of Health is composed of the City governing body, which shall have and exercise all powers under the law. (Source: North Dakota Century Code Section 23-35-03)

10.0102 Regulations

The Board of Health may make rules regarding any nuisance, source of filth, and any cause of sickness which are necessary for public health and safety. The Board of Health shall appoint a local health officer. (Source: North Dakota Century Code Section 23-35-08).

ARTICLE 2 – Local Health Officer

10.0201 Duties of Local Health Officer – Term

1. A local health officer shall serve a term of five years, subject to removal for cause by the governing body or the district board of health. The health officer must be a physician licensed to practice medicine in this state and need not be a resident of the public health unit. The appointee shall qualify by filing the constitutional oath of office in the manner provided for the members of the board of health. If the state health officer finds a local health officer is failing to perform the duties of the position, the state health officer may report the case to the governing body. At the next meeting of the governing body or district board of health, the governing body or district board of health, and the board shall declare the office vacant and promptly shall appoint another physician to fill the unexpired term.
2. Within the jurisdiction of the board of health, a local health officer:
 - a. Shall keep a record of the official acts of the local health officer.
 - b. Shall enforce every law and rule relating to preservation of life and health of individuals.
 - c. May exercise the powers and duties of the board of health under the supervision of the board of health.
 - d. May make sanitary inspections of any place within the jurisdiction in which the local health officer finds a probability a health-threatening condition exists.
 - e. May investigate public water and ice supplies suspected of contamination and initiate necessary condemnation proceedings.
 - f. May enforce school cleanliness; inspect any schools that may be overcrowded, poorly ventilated, or unsanitary; and, when necessary, report cases of any unsanitary or unsafe school building to the board of health for investigation.

- g. May take any action necessary for the protection of public health and safety.
 - h. May determine when quarantine and disaffection is necessary for the safety of the public. The local health officer may establish quarantines consistent with procedures provided under chapter 23-07.6 of the North Dakota Century Code, and perform any acts required for disinfecting when necessary.
 - i. Shall maintain an office within the jurisdiction of the public health unit consistent with any terms of appointment.
 - j. May select and discharge any assistant health officer in the public health unit, consistent with any terms of appointment.
3. A local health officer may request the assistance of a county sheriff or city health department in the same manner as provided under subsection 3 of section 23-35-09 of the North Dakota Century Code.

10.0202 Penalty

Any person who violates any order, ordinance, or rule prescribed by the board of health or local health officer or any rule adopted under this chapter shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not to exceed thirty (30) days or both such fine and imprisonment. (Source: North Dakota Century Code Section 23-35-13)

ARTICLE 3 – Garbage, Refuse, Rubbish

10.0301 Definitions

For the purpose of this article the following words shall have the meanings given herein:

1. “Ashes” is the residue from burning wood, coal, coke or other combustible materials.
2. “Garbage” is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
3. “Refuse” is all putrescible and non-putrescible solid wastes (except body wastes) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.
4. “Rubbish” is non-putrescible solid wastes (excluding ashes) consisting of both combustible and non-combustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

10.0302 Accumulation of Refuse Prohibited

No person shall permit or allow to accumulate in or about any yard, lot, place or premises; or upon any street or sidewalk, adjacent to or abutting upon any lot, block or place, or premises owned and occupied by that person, any and all refuse, nor allow such yard, lot, place or premises to be or remain in such condition.

10.0303 Containers

All garbage and rubbish shall be placed by the person upon whose premises the same shall have been produced or accumulated, in watertight containers, which shall be protected against the access of flies and rodents.

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

10.0304 Burning

No garbage, refuse, rubbish, leaves, grass, or tree and bush branches shall be burned within the City or in disposal grounds maintained by the City.

10.0305 Nuisance

Failure to comply with the provisions of Sections 10.0302, 10.0303 and 10.03004, shall constitute a public nuisance and be punishable as such under the terms of Chapter Twelve of these ordinances.

10.0306 City Collection

All garbage and rubbish as defined herein shall be collected by the city or franchised contractor as frequently as is necessary to maintain and preserve community cleanliness and sanitation, except that this section shall not require the collection of garbage and rubbish where streets and alleys are in a temporary condition which makes it impossible to do so and in case of the failure to collect such garbage and rubbish, such failure shall not relieve the occupant of the premises from the payment of the garbage and rubbish collection fees hereinafter provided for.

10.0307 Fees

Fees for the collection of garbage rubbish by the City or franchised contractor and the disposal thereof may be set by resolution of the City governing body.

10.0308 Fees – Payment – Collection

In all places where water service is provided, fees for garbage and rubbish collection shall be added to and collected as a part of the water bill and collected by the water department, but shall be separately stated on the bill. Garbage and rubbish collection bills shall be due and payable at the same time as the water bill, either monthly or quarterly as the case may be. If such charge is not paid when due the water service to such premises shall be shut off by the water department in the same manner as is now provided for in the case of delinquency in payment of water bills and such service shall not be restored without the payment of the penalties now provided for.

In all places where water service is not provided, the fees for garbage and rubbish collection shall be paid to the Water Department of the City upon monthly or quarterly bills from the Water Department. If the garbage and rubbish charge so established is not paid when due, such sum may be recovered by the City, in an action at law against the owner or occupant, or both, of the property so served.

The proceeds from the collection of the fees and charges shall be placed in the solid waste management fund, and all of the expense of the City, in the purchase and maintenance of equipment and in the collection and disposal of garbage and rubbish, shall be paid out of the solid waste management fund.

10.0309 Fees – Payment – Collection by Franchised Contractor

In the event the City elects to franchise a contractor to perform the collection services contemplated by this section, collection of fees, limited as set out in this section, are to be made by the contractor. Failure to pay fees billed by the contractor within thirty (30) days of billing and reporting of the failure to pay to the City shall release the contractor from collection responsibility regarding the delinquent premises. On being notified of delinquencies the City may avail itself of any or all of the collection provision of Section 10.0308.

10.0310 Disposal of Refuse not Collected by the City

All other wastes as defined, and not included under garbage, rubbish and ashes, may be disposed of by the person creating such waste, by hauling such waste for disposal to such points as are designated or approved by the City health officer.

10.0311 Supervision

The collection, removal and disposal of garbage and rubbish under the provisions of this article shall be under the supervision, direction and control of the public works superintendent with the assistance of the City health officer. The public works superintendent shall, unless there is a franchised contractor, appoint such employees as shall be necessary to carry out the purposes of this article, which appointments shall be subject to the approval of the governing body.

10.0312 Rules and Regulations

The health officer of the City shall prescribe such reasonable rules and regulations in connection with preparation, handling and disposition of garbage and rubbish as may be necessary to regulate, enforce and carry out the provisions of this chapter. The health officer may direct that the City garbage and rubbish collection crews shall not collect garbage and rubbish from any premises where such rules and regulations are not complied with and the failure to collect the same shall not relieve the owner or occupant of the premises from the payment of fees nor from the enforcement of the penalties of this code. In the absence of City collection crews the health officer may give instructions to a franchised contractor.

10.0313 Garbage and Waste – Removal

10.0313.1 DEFINITION OF TERMS

As used in this Ordinance, the words garbage, rubbish and all other wastes shall have their commonly understood meanings.

(Source: Ordinance NO. 7, 1979)

10.0313.2 ACCUMULATION OF WASTES IN CITY LIMITS PROHIBITED

No person, persons, firm or corporation shall permit or suffer to accumulate in or about any yard, lot, place or premises, or upon any street or sidewalk adjacent to or abutting upon any lot, block or place, or premises owned and occupied by him or them, or for which he or they may be agent or agents, within the city limits, garbage, manure, ashes, rubbish, refuse, or any other wastes of any description whatsoever, nor suffer such yard, lot, place or premises to be in or remain in such condition.

(Source: Ordinance NO. 7, 1979)

10.0313.3 COLLECTION AND DISPOSAL

The collection, removal, and disposal of garbage, rubbish, ashes, and all other wastes in the city shall be under the supervision, direction and control of the City Council. The City Council shall have power to contract with a person, firm or corporation for said collection, removal and disposal as aforesaid. The time or times for collection together with the fee to be charged each homeowner shall be established by a duly adopted resolution of the City Council.

(Source: Ordinance NO. 7, 1979)

10.0313.4 MONTHLY CHARGE TO BE PAID

Each homeowner shall pay the monthly charge or fee established by resolution of the City Council as provided in Section 10.0313.3. Such monthly fee or charge shall be paid by the homeowner at such time or times as may be established by resolution of the City Council. No person, firm or corporation within the city shall be permitted to refuse to accept the garbage collection and disposal service provided for in this ordinance and the failure of any person to receive or accept such service shall not exempt him from payment of the charges established herein. In the case of a rental unit, the owner or his authorized agent shall furnish the City Auditor with the name and address of any tenant. In the event the tenant does not pay the monthly charge herein established, the owner shall remain responsible for the same.

(Source: Ordinance NO. 7, 1979)

10.0313.4 CITY COUNCIL MAY ESTABLISH RULES AND REGULATIONS

The City Council may prescribe and publish such reasonable rules and regulations in connection with the preparation, handling and disposition of garbage, rubbish, trash and other wastes, as may be necessary to regulate, enforce and carry out the provisions of this article.

(Source: Ordinance NO. 7, 1979)

10.0313.5 PENALTY

Every person, firm or corporation convicted of a violation of any of the provisions of this chapter, for which another penalty is not specifically provided therein, shall upon conviction thereof, be punished by a fine or not more than Five Hundred Dollars (\$500) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment in the discretion of the Court; the Court to have power to suspend said sentence, and to revoke the suspension thereof.

(Source: Ordinance NO. 7, 1979)

Section 10.0314.8 HEARING BOARD

1. A Hearing Board, consisting of three (3) members, shall be selected as needed for arbitration of differences between the Superintendent and sewer users on matters concerning interpretation and execution of the provisions of this ordinance by the Superintendent.
2. 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.

(Source: Ordinance No. 16; 1985)

Section 10.0314.9 VALIDITY

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

(Source: Ordinance No. 16; 1985)

ARTICLE 4 – Dangerous Buildings

10.0401 Dangerous Buildings Defined

For the purpose of this chapter, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member or portion thereof. Due to all dead and live loads, are more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, 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 (I) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.
11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (I) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any non-supporting part, member or portion less than 66 percent of the (I) strength, (ii) fire-resisting qualities or characteristics, or (iii) 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.

10.0402 Standards for Repair, Vacation or Demolition

The following standards shall be followed in substance by the building inspector and the governing body in ordering repair, vacation or demolition:

1. If the “dangerous building” can be reasonably repaired so that it will no longer exist in violation of the terms of this article it shall be ordered repaired.
2. If the “dangerous building” is in such condition as to make it dangerous to the health, safety or general welfare of its occupant it shall be ordered to be vacated.
3. In all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article it shall be demolished. In all cases where a “dangerous building” is a fire hazard existing or erected in violation of the terms of this article or any ordinance of the City or statute of the State of North Dakota, it shall be demolished.

10.0403 Dangerous Buildings – Nuisances

All “dangerous buildings” within the terms of Section 10.0401 of this article are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided in this ordinance or under state law.

10.0404 Duties of Building Inspector

The building inspector, as designated by the City governing body, shall:

1. Inspect or cause to be inspected periodically, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places a “dangerous building” within the terms of Section 10.0401 of this article.
2. Inspect any building, wall or structure about which any person to the effect files complaints that a building, wall, or structure is or may be existing in violation of this article.
3. Inspect any building, wall or structure reported by the fire or police departments of this City as probably existing in violation of the terms of this article.
4. Notify in writing the owner, occupant, lessee, mortgagee and all other persons having an interest in said building, as shown by the records in the office of the County Register of Deeds, of any building found by the building inspector to be a “dangerous building” within the standards set forth in Section 10.0401 of this article that: (a) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this article; (b) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty (30) days as may be necessary to do, or have done, the work or act required by the notice provided for herein.
5. Set forth in the notice provided for in subsection 4 hereof a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a “dangerous building”, and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty (30) days, as is reasonable.
6. Report to the City governing body any noncompliance with the “notice” provided for in subsection 4 and 5 hereof.
7. Appear at all hearings conducted by the City governing body and testify as to the conditions of “dangerous buildings”.
8. Place a notice on all “dangerous buildings” reading as follows: “This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee or mortgagee of this building and all other persons having an interest in said building as shown by the records of the County Register of Deeds. It is unlawful to remove this notice until such notice is complied with.”

10.0405 Duties of the City Governing Body

The City governing body shall:

1. Upon receipt of a report of the building inspector as provided for in Section 10.0404, subsection 6 hereof, give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the County

Register of Deeds, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a “dangerous building” should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the building inspector’s notice provided for herein in Section 10.0404, subsection 5.

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 County Register of Deeds shall offer relative to the “dangerous building”.
3. Make written findings of fact from the testimony offered pursuant to subsection 2 as to whether or not the building in question is a “dangerous building” within the terms of section 10.0401 hereof.
4. Issue an order based upon findings of fact made pursuant to subsection 3 commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the County Register of Deeds to repair, vacate or demolish any building found to be a “dangerous building” within the terms of this article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said “dangerous building”.

10.0406 Failure to Comply with Decision of the City Governing Body

If the owner, occupant, mortgagee or lessee fails to comply with the order of the City governing body or fails to appeal to the District Court within thirty (30) days as provided herein, the City through its officers and employees shall cause such building or structure to be repaired, vacated or demolished as ordered by the City governing body and shall cause the costs of such repair, vacation or demolition to be charged against the land on which said building existed by special assessment, or as a municipal; lien, or shall cause said cost of removal to be levied as a special tax against the land upon which said building stands or did stand or to be recovered in a suit at law against the owner.

10.0407 Violations – Penalty for Disregarding Notices or Orders

The owner of any “dangerous building” who shall fail to comply with any notice or order to repair, vacate to demolish said building given by any person authorized by this article to give such notice or order shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500.00) for each offense and every day subsequent to such notice in which the said owner shall fail to comply with any notice or order as above stated shall be deemed a separate offense.

The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said building in accordance with any notice given as provided for in this article shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500.00) for each offense and every day subsequent to such notice in which the said occupant or lessee shall fail to comply with any notice or order as above stated, shall be deemed a separate offense.

Any person removing the notice provided for in Section 10.0404, subsection 8 thereof shall be guilty of an infraction and upon conviction shall be fined not exceeding five hundred dollars (\$500.00) for each offense.

10.0408 Duties of the City Attorney

The city attorney shall:

1. Prosecute all persons failing to comply with the terms of the notices provided for herein in Section 10.0404, subsections 4 and 5 and the order provided for in Section 10.0405, subsection 4.

2. Appear at all hearings before the City governing body in regard to “dangerous buildings”.
3. Take such other legal action as is necessary to carry out the terms and provisions of this article.

10.0409 Where Owner Absent from the City

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the City, all notice or orders provided for herein shall be sent by registered or certified mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the land records of the County Register of Deeds to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

10.0410 Duties of Fire, Police and Health Departments

All employees of the fire, police and health departments shall make written reports to the building inspector of all buildings or structures which are, may be or are suspected to be “dangerous buildings” as herein defined.

10.0411 Appeal

The City governing body shall serve upon the owner, occupant, mortgagee, lessee and all other persons having an interest in any building ordered to be repaired, vacated or demolished, a copy of its order. The owner, occupant, mortgagee or lessee shall thereafter have thirty (30) days from the date of the service of such order in which to appeal from such order to the District Court or to take such other legal steps to enjoin the enforcement of such order.

APPENDIX 10-1

**IN THE MATTER OF "DANGEROUS BUILDINGS" LOCATED
AT _____, Reile's Acres, North Dakota
UNDER ARTICLE 4, CHAPTER TEN**

NOTICE OF HEARING

You are hereby notified that the building inspector of Reile's Acres, North Dakota, has filed with the City governing body a report that you have not complied with a Notice and Order that buildings located at _____ were dangerous buildings and were to be demolished by you prior to _____, 20__.

You are further notified to appear before the City governing body at _____ on the _____ day of _____, 20__, at the hour of _____ o'clock ___m., to show cause as to why the building reported to be "dangerous building", should not be demolished in accordance with the statement of particulars set forth in the Building Inspector's Notice.

Dated _____, 20__.

THE CITY OF REILES ACRES, NORTH DAKOTA

By _____
Mayor

ATTEST:

City Auditor

APPENDIX 10-2

**IN THE MATTER OF A "DANGEROUS BUILDING" LOCATED IN
THE CITY OF REILE'S ACRES, NORTH DAKOTA,
WITH AN ADDRESS OF**

NOTICE AND ORDER

You are hereby notified that the undersigned, building inspector of the City of Reile's Acres _____, North Dakota, acting pursuant to Article 4, Chapter 10 of the Ordinances of the City of Reile's Acres, has made an inspection of the following described building in which you are, or appear to be, interested: _____

You are further notified that the undersigned building inspector deems the foregoing described building to be dangerous within the meaning of Section 10.0401 of said Ordinances in the following particulars: _____

YOU ARE THEREFORE ORDERED TO _____

the said building on or before this _____ day of _____, 20_____.

Building Inspector

Dated this _____ day of _____, 20_____.

APPENDIX 10-3

This is a suggestion as to the warning sign that should be printed in red.

WARNING

Whereas it has been determined by appropriate inspection that the dwelling or building to which this notice is attached does not comply with Ordinances of the City of Reile's Acres, all persons are hereby warned that it is unlawful to rent, lease, let, occupy or permit the use or occupancy of this dwelling or building, for dwelling purposes or as a place of employment for human beings, or to remove or molest this notice.

City Health Officer

Reile's Acres, North Dakota

ARTICLE 5. FIREWOOD RULES

10.0501 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.

- A. "Firewood" shall mean wood based combustibles used for burning in wood-burning stoves, fireplace hearths, or airtight heaters.
- B. "Vermin" shall mean gophers, ground squirrels, mice, rabbits, raccoons, rats, skunks, and other non-domestic animals.

(Source: Ordinance No. 24; 1988)

10.0502 FIREWOOD STORAGE

Outdoor storage firewood shall be limited to one cord of wood measuring 128 cubic feet, which shall be stacked and stored in an area which is obscured from view from neighboring homes and streets during the period from May 1 to November 1 of each year. Outdoor wood shall be kept free of vermin. Should any wood pile become the home to vermin such as rodents, rabbits, or other non-domestic animals, the owner shall remove the entire pile to either inside storage or liquidate the woodpile. Owners receiving delivery of wood shall have fourteen days from date of delivery to comply with the above requirements.

(Source: Ordinance No. 24; 1988)

10.0503 PENALTIES

Violation of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a class B 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 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.

(Source: Ordinance No. 24; 1988)

CHAPTER ELEVEN

ANIMALS AND FOWL

ARTICLE 1 - General Regulations

- 11.0101 Cruelty - Penalty
- 11.0102 Dangerous Animals
- 11.0103 Permit - When Issued
- 11.0104 Killing Dangerous Animals
- 11.0105 Diseased Animals
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- 11.0107 Keeping of Certain Animals Prohibited
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ARTICLE 2 - Dogs and Cats

- 11.0201 License Required
- 11.0202 Licensing Procedure and Terms
- 11.0203 License Fee
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- 11.0207 Disposition of Unclaimed Dogs or Cats
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- 11.0209 Noisy Dog or Cat Prohibited
- 11.0210 Nuisance - When
- 11.0211 Penalty

CHAPTER ELEVEN

ANIMALS AND FOWL

ARTICLE 1 – General Regulations

11.0101 Cruelty – Penalty

No person shall cruelly treat any animal in the City in any way. Any person who inhumanly beats, underfeeds, overloads or abandons any animal shall be deemed guilty of an offense for which the maximum penalty shall be a fine of five hundred dollars (\$500.00), thirty (30) day imprisonment, or both such fine and imprisonment. (Source: North Dakota Century Code Section 36-21.1-02)

11.0102 Dangerous Animals

It shall be unlawful to permit any dangerous animal or vicious animal of any kind to run at large within the City. Exhibitions or parades of wild animals may be conducted only upon securing a permit from the chief of police. It shall also be unlawful to keep or harbor within the City any dangerous animal without first having obtained a permit to keep or harbor such animal from the chief of police.

11.0103 Permit – When Issued

The chief of police shall have discretion as to whether or not to issue a permit pursuant to Section 11.0102. If the chief of police shall refuse to issue a permit, the decision may be appealed to the governing body. No permit shall be issued without first obtaining a description of the animal, the name of the owner or person in charge, the purpose for which the animal is kept, and such other pertinent information as the chief of police shall determine. Any dangerous animal kept or allowed to run at large without the owner or keeper having first obtained a permit in compliance with this section is hereby declared a nuisance and the owner or keeper shall be guilty of a violation of this article.

11.0104 Killing Dangerous Animals

The members of the police department or any other person in the City are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.

11.0105 Diseased Animals

No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at large, or to be exposed in any public place whereby the health of man or beast may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner thereof, except under the supervision of the chief of police or the health officer.

It is hereby make the duty of the health officer to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the state department of health is empowered to act.

11.0106 Housing

No person shall cause or allow any stable or place where any animal is or may be kept to be unclean, or unwholesome.

11.0107 Keeping of Certain Animals Prohibited

It shall be unlawful to keep any live sheep, swine or pigs, cattle, chickens or other poultry, goats, or rabbits in the City. This section shall not apply to any person, partnership or corporation keeping or handling such animals under consignment in the course of regular business or to a licensed livestock auction market.

11.0108 Strays

It shall be unlawful to permit any cattle, horses, sheep, swine, goats or poultry to run at large in the City; and any such animal running at large in any public place in the City shall be impounded. It shall further be unlawful to picket or tie any such animal in any of the streets of the City for the purpose of grazing or feeding.

11.0109 Noises

It shall be unlawful to harbor or keep any animals, which habitually disturbs the peace by loud noises at any time of the day or night.

11.0110 Penalty

Any person who shall violate the provisions of this article for which a specific penalty is not otherwise provided shall be guilty of an infraction for which the maximum penalty is a fine of five hundred dollars (\$500.00). The owner of any animal impounded pursuant to the provisions of this article shall pay all costs and charges assessed for such impoundment before such animal shall be released to the owner.

ARTICLE 2 – Dogs and Cats

11.0201 License Required

Rescinded 6, September, 2016

Collateral Authority: Section 11.0212.6.

11.0202 Licensing Procedure and Terms

Rescinded 6 September, 2016

11.0203 License Fee

Rescinded 6 September, 2016

11.0204 License: When Due and Payable

Rescinded 6 September, 2016

11.0205 Dog or Cat Running at Large Prohibited

It shall be unlawful for the owner or keeper of any dog or cat to permit the same to run at large in the City at any time. A dog or cat shall not be considered running at large if attended and on a leash or when in the confines of the owner's or keeper's premises.

11.0206 Disposition of Unlawful Dogs or Cats

Any unlicensed dog or cat or any dog or cat running at large may be taken up by any police officer and impounded at the City dog pound, or such other place as may be designated by the governing body. The dog or cat shall not be released to any person until such dog or cat is licensed (if unlicensed); a fee of \$20.00 is paid for the taking of each animal, and all pound charges are paid directly to the facility where the dog or cat is housed.

11.0207 Disposition of Unclaimed Dogs or Cats

The owner or keeper shall be notified of the taking of the dog or cat. If the owner or keeper fails to pay the charges (including license if necessary) and claims the animal within three days of notification the animal may be destroyed. If the owner or keeper is unknown, the chief of police shall give public notice of the taking of the animal before it is destroyed or otherwise disposed of.

11.0208 Return to Owner if Known

Notwithstanding the provisions of Section 11.0206, if a dog or cat is found at large and its owner can be identified and located, such dog or cat need not be impounded but may, instead, be taken to the owner. In such case the policeman or other officer may proceed against the owner or keeper for violation of this article.

11.0209 Noisy Dog or Cat Prohibited

It shall be unlawful to keep or harbor within the City any dog or cat that disturbs the peace by habitually howling, barking, whining, meowing or making other disagreeable noise. Any person wishing to file a complaint shall be required to give his name and address and sign a complaint.

11.0210 Nuisance – When

Any licensed dog or cat, any dog or cat running at large, any dog or cat disturbing the peace, or any dog or cat molesting passers-by, chasing vehicles or trespassing upon private property is hereby declared to be a nuisance.

11.0211 Penalty

Any person violating any provision of this article shall be guilty of an infraction and be fined not to exceed five hundred dollars (\$500.00).

11.0212 Dogs and Cats.

11.0212.1 Definition of Terms – As used in this Ordinance, unless the context otherwise indicates:

- A. “Dog” or “Cat” shall refer to both the male and female of the species;
- B. “Owner” shall mean any person or persons, firm, association, or corporation owning, keeping or harboring a dog or cat;
- C. “At large” shall mean off the premises of the owner and not under the control of the owner or a member of his immediate family either by leash, cord, chain, or otherwise.

(Source: Ordinance 5; 1978; Ordinance 27: 1988 ** (D.))

11.0212.2 DOGS OR CATS RUNNING AT LARGE DECLARED A NUISANCE.

All dogs and cats running at large within the limits of the City of Reile’s Acres contrary to the provisions of this chapter are hereby declared a public nuisance.

(Source: Ordinance 5: 1978)

11.0212.3 DOGS OR CATS RUNNING AT LARGE PROHIBITED

No person having the custody or control of any dog or cat shall allow or permit the same to be off the property limits of its owner or keeper or on any street, public park, school grounds, or public place in the city without being effectively restrained by chain or leash not exceeding six feet in length, or unless accompanied by, and under the control and direction of, a competent person and obedient to that person’s commands, or within a vehicle being driven or parked on the streets.

(Source: Ordinance 5; 1978; Ordinance 27: 1988)

11.0212.4 HABITUALLY BARKING, CRYING OR HOWLING DOG OR CAT DECLARED A PUBLIC NUISANCE

Any animals which habitually bark, cry or howl are hereby declared to be a public nuisance.

(Source: Ordinance 5; 1978)

11.0212.5 HABITUALLY BARKING, CRYING OR HOWLING DOG OR CAT PROHIBITED

No person shall keep or harbor any dog or cat which habitually barks, cries or howls.

(Source: Ordinance 5; 1978)

11.0212.6 LICENSE AND REGISTRATION REQUIRED

All dogs and cats, not vicious or dangerous, kept or maintained by their owners in the city shall be licensed and registered when six months of age, provided:

1. Dog and cat licenses shall be issued by a city-appointed veterinary clinic upon payment of the current license fee, for each dog or cat, established by council resolution.
2. The owner shall state at the time application is made for such license, upon printed forms provided for such purpose, his name and address and the breed, color, and sex of the animal, date of rabies inoculation of the animal, and whether or not the animal is neutered, spayed or desexed.
3. A rabies inoculation shall be required at least every two years for any dog or cat. No license shall be issued for any dog or cat 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 sometime within the twenty-four month period immediately preceding the dates of the license application. Failure to have a rabies inoculation at the necessary time would cancel a dog's or cat's license.
4. No license for a neutered, spayed, or desexed dog or cat shall be issued unless satisfactory evidence of neutering, spaying or desexing is submitted.
5. The licensing provisions of this section shall not apply to dogs or cats where the owners are nonresidents temporarily within the city, nor to dogs or cats brought into the city for the purpose of participation in any dog or cat show, nor to "seeing eye" dogs properly trained to assist blind persons when such dogs are actually kept for use by blind persons for the purpose of aiding them in going from place to place.

(Source: Ordinance 5; 1978)

11.0212.7 UNLAWFUL FOR DOG OR CAT TO HAVE SHIELD WITHOUT LICENSE

No person or persons shall put a collar, with shield attached, around the neck of any dog or cat without having first paid the license aforesaid or with the intention to defraud or deceive the city authorities in the collection of said license.

(Source: Ordinance 5; 1978)

11.0212.8 TERM OF LICENSE

The license herein provided for shall be in force from the date thereof until the 1st day of April thereafter.

(Source: Ordinance 5; 1978)

11.0212.9 ANIMAL MUST HAVE COLLAR WITH RABIES TAG AND LICENSE TAG ATTACHED

Upon payment of the current license fee, a city-approved veterinary clinic shall issue to the owner a license certificate and a metallic tag for each dog and cat so licensed. The tag shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Each owner shall be required to provide each dog and cat with a collar to which the license tag must be affixed and shall see that the collar and tag are constantly worn. In case a tag is lost or destroyed a duplicate will be issued upon presentation of a receipt showing the payment of the license fee for the current year and the payment of current fee for such duplicate. Tags shall not be transferable from one animal to another and no refunds shall be made on any license fee because of death of the animal or the owner's leaving the city before expiration of the license period. The metal rabies-inoculation tag shall also be kept affixed to the animal's collar at all times.

(Source: Ordinance 5; 1978)

11.0212.10 IMPOUNDING UNLICENSED DOG OR CAT

If any dog or cat shall be found running at large without said license having been paid, and without said collar as hereinbefore prescribed, said dog or cat shall be impounded as hereinafter provided and the owner shall be punished as hereinafter provided.

(Source: Ordinance 5; 1978)

11.0212.11 IMPOUNDING DOG OR CAT RUNNING AT LARGE

If any dog or cat, licensed or unlicensed, shall be found running at large, said dog or cat shall be impounded as hereinafter provided.

(Source: Ordinance 5; 1978)

11.0212.12 IMPOUNDING: ANIMAL TO BE DESTROYED.

Any animal running at large contrary to the provisions of this Chapter, shall be impounded in a place to be named by the City; and unless the owner of said animal, within twenty-four (24) hours after such impounding, claim the same and pay the license fee if unpaid, the costs of impoundment and maintenance, all costs incurred in giving and needed rabies inoculations, together with an administrative fee in the amount of \$25, the person designated by the Mayor shall appear before an appropriate Court to make proof that such animal impounded was found running at large contrary to the provisions of this Chapter and that the same has not been redeemed, whereupon said Court shall make an order in writing authorizing said person designated to destroy said animal. Such destruction shall not be less than three (3) days from the date of impounding. Any person or persons who shall permit his or her animal to run at large contrary to the provisions hereof, shall, upon conviction hereof, be punished as provided herein.

(Source: Ordinance 5: 1978; Ordinance 43: 1994)

11.0212.13 COMMERCIAL KENNELS PROHIBITED

No person, firm or corporation shall, within the City limits of Reile's Acres, establish or maintain a commercial dog kennel.

(Source: Ordinance 5; 1978)

11.0212.14 DUTY OF ENFORCING AGENT

It is hereby made the duty of the enforcing agent or such other person as the mayor designates, to see that the provisions of this chapter are complied with and enforced. In the event the owner of an animal running at large is known by the enforcing agent, or when a complaint is signed by a resident, the enforcing agent shall advise the owner he is in violation of this ordinance or that said complaint has been or will be signed. The enforcing agent shall be authorized to issue a summons for violations of this ordinance provided that such violation is committed in his presence. In all other cases the procedure shall be for said enforcing agent to sign a complaint before the proper judicial official. Any individual

citizen wishing to make a complaint must appear before the proper judicial official and sign such complaint.

(Source: Ordinance 5; 1978)

11.1212.15 RABIES – NOTICE TO CITY REQUIRED – IMPOUNDING

If a dog or cat is believed to have rabies, or a person has been bitten by a dog or cat suspected of having rabies, such animal shall be impounded and placed under the observation of a veterinarian, at the expense of the owner, for a period of two (2) weeks or as long as requested by said veterinarian. The owner of such animal shall notify the city of the fact that his dog or cat has been exposed to rabies and the city is empowered to order such animal removed from the owner's premises to a veterinary hospital and there placed under observation as aforesaid at the expense of the owner. It shall be unlawful for any person knowing or suspecting that a dog or cat has rabies to allow such cat or dog to be taken off his premises or beyond the limits of the city without giving such notice. Every owner, or other person, upon ascertaining that dog or cat is rabid shall immediately notify the city and the animal may thereafter either be removed or summarily destroyed provided, however, that in the event of a biting incident, the foregoing provisions of this section must be complied with.

(Source: Ordinance 5; 1978)

11.0212.16 PENALTY

Every person, firm, or corporation, convicted of a violation of any of the provisions of this chapter, for which another penalty is not specifically provided herein, shall upon conviction thereof, be punished by a fine of not more than Five Hundred (\$500.00) Dollars, or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment in the discretion of a court, the court to have power to suspend said sentence, and to revoke the suspension thereof.

(Source: Ordinance 5; 1978)

11.0213. Domestic fowl and farm animals.

10.0213.1 UNLAWFUL TO KEEP DOMESTIC FOWL OR FARM ANIMALS IN CITY

It shall be unlawful for the owners, keepers, and custodians of chickens, ducks, geese or other domestic fowls, horses, cattle, sheep, swine or goats to permit, suffer or allow the same within the city limits of the city of Reile's Acres. This ordinance shall not be construed to prohibit household pets such as rabbits, hamsters, canaries, parakeets, or other such pet birds or animals.

(Source: Ordinance 5; 1978)

10.0213.2 PENALTY

Every person, firm or corporation convicted of the violation of any of the provision of this title, shall upon conviction thereof be punished by a fine of not more than Five Hundred (\$500.00) Dollars, or by imprisonment of not more than thirty (30) days or both such fine and imprisonment in the discretion of a Court; the Court to have power to suspend said sentence and to revoke the suspension thereof.

(Source: Ordinance 5; 1978)

10.0214 Vicious animals.

10.0214.1 UNLAWFUL TO KEEP VICIOUS ANIMALS

- A. No person or persons in the city, being the owner or keeper of any dangerous, vicious or unruly animals, and knowing said animal to be such, shall allow the same to be or run at large. The owner or keeper of any such vicious animal that shall have bitten any person while running at large shall be guilty of an infraction. If any dangerous, vicious or unruly animal shall be found running at large and said animal cannot be safely taken up and impounded, such animal may be slain by any policeman.

(Source: Ordinance 5: 1978; Ordinance 27: 1988)

10.0214.2 PENALTY

Violation of the provisions of section 10.0214.1 or failure to comply with any of its requirements shall constitute a class B misdemeanor. Any person, firm, corporation, 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 such offense, and in addition shall pay costs and expenses involved in the case.

In the event of a conviction for keeping, harboring, or owning any Pit Bull Dog, as defined in this Ordinance, the Court may order the destruction of the dog unless the owner destroys or removes such Pit Bull Dog from the corporate limits of the City of Reile's Acres, North Dakota, within twelve (12) hours from the date of conviction.

(Source: Ordinance 5: 1978; Ordinance 27:1988)

CHAPTER TWELVE

PUBLIC NUISANCES

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- 12.0102 Outhouses - Cesspools - A Nuisance
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CHAPTER TWELVE

PUBLIC NUISANCES

ARTICLE 1 – Sanitary Nuisances

12.0101 Residence – When Sewer and Water Required

It shall be unlawful for any person to use or occupy or permit to be used or occupied for residence purposes, any premises or building within the corporate limits of this City without first making or causing to be made proper connections with the City’s sewer and water facilities and mains.

The term “proper connections” when used in this section shall be construed to mean connections with the water mains and sanitary sewers which are equipped and furnished with proper valves and fittings so as to enable such water connections to be used at all times. Sanitary toilets and drains and such equipment shall at all times be kept in repair and in a manner so as to make them available for household use and in condition to be used at all seasons of the year.

12.0102 Outhouses – Cesspools – A Nuisance

The use, construction, maintenance, building or erection of any outhouse, privy, vault or cesspool within this City is hereby declared to be a nuisance and a menace to public health, when in violation of Section 12.0101.

12.0103 Outhouses – Cesspools – Exceptions

1. Private sewage system and private water supplies may be constructed to serve new buildings to be built in areas not included in Section 12.0101, providing such lot area complies with the requirements of any zoning requirements.
2. Private sewage systems and private water systems may be installed in existing buildings in areas not included in Section 12.0101.
3. Each private sewage system or private water supply hereafter altered or constructed shall conform to the State Health Department Standards.

12.0104 Outhouses – Cesspools – Offensive Odors

It shall be unlawful for the owner or occupant of any lot or piece of ground within the corporate limits of this City to permit any private sewer system to emit any offensive odors or to become dangerous or injurious to public health or offensive to sense of smell of the people of the City. Any private sewer system emitting such odor is hereby declared to be a nuisance and a menace to the public health of the City.

12.0105 Outhouses – Cesspools – Cleaning of

In the cleaning of private septic tanks and sewage systems the contents thereof shall be removed in containers fitted so as to prevent the escape of odors or materials there from and disposed of in a manner approved by the City health officer.

The pumping of a private sewage system on the surface of the ground or hauling contents thereof in such a manner as to allow the material to spill on the ground, street or public ways is hereby declared to be a public nuisance.

12.0106 Dead Animals

Any person who owned or had possession or control of a dead animal prior to its death shall remove or cause the same to be removed within five (5) hours from the time the animal dies and have the same buried or disposed of in some other sanitary way approved by the City health officer. Any dead animal remaining in any street, alley or other public place in this City, or in any private premises within this City, for more than five (5) hours after the animal shall have died, is hereby declared to be a nuisance. Any person allowing any animal which that person controlled or possessed, prior to its death, to remain in any street, alley or public place, or on any private premises within the City for more than five (5) hours after its death shall be guilty of a violation of this article.

12.0107 Water Pools – Putrid Substances

It shall be unlawful for the owner or occupant of any parcel of ground in this City to suffer or permit water or putrid substance whether animal or vegetable to accumulate or stand so as to cause an offensive odor to be emitted there from or to become injurious or dangerous to the health of the neighborhood. Any pool of water and any putrid substance permitted to become offensive or injurious to the public health are hereby declared to be a public nuisance.

ARTICLE 2 – Smoke – Gases

12.0201 Smoke, Dust, Ashes, Cinders, Gases – A Nuisance

The emission of dense smoke, ash, dust, cinders or noxious gases from any machine, contrivance or from the smoke stack or chimney of any building or premises in such quantities as to cause injury or detriment to any person or persons or to the public, or to endanger the comfort, health or safety of any person or persons, or in such manner as to cause or tend to cause damage or injury to property, is hereby declared to be a public nuisance.

12.0202 Smoke, Dust, Ashes, Cinders, Gases – Prohibited

No person, persons, association or corporation shall cause, permit or allow the escape from any smoke stack or chimney into the open air, of such quantities of dense smoke, ash, dust, soot, cinders, acid or other fumes, dirt, or other material, or noxious gases, in such place or manner as to cause injury, detriment or nuisance to any person or persons, or to the public, or to endanger the comfort, health or safety to any such person or persons, or the public, or in such manner as to cause or have a natural tendency to cause injury or damage to business or property.

ARTICLE 3 – Radio Interference and Noise Control

12.0301 Radio Interference Prohibited

It shall be unlawful for any person knowingly to maintain, use, operate or cause to be operated within this City, any machine, device, appliance, equipment or apparatus of any kind whatsoever, the operation of which shall cause reasonably preventable electrical interference with radio reception within said municipal limits. The maintenance, use or operation within the City of any machine, device, appliance, equipment or apparatus of any kind so as to interfere with radio reception in violation hereof is hereby declared a public nuisance.

12.0302 Loud, Disturbing, Unnecessary Noises – Prohibited

The making, creating or maintenance of loud, unnatural or unusual and disturbing noises are a detriment to public health, comfort, convenience, safety and welfare, and are hereby declared to be unlawful and a public nuisance. The following acts, among others, are declared to be prohibited noises in violation of this section, but such enumeration is not exclusive:

1. The sounding of horns or signaling devices on any motor vehicle or motorcycle on any street or public place except as a danger warning.

2. Radios phonographs, etc. The using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated, and who are voluntary listeners thereto. The operations of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
3. Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
4. Yelling, shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 PM and 7:00 AM, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
5. Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed indicating that a school, hospital, or court is in the vicinity.

ARTICLE 4 – Automobiles – Personal Property

12.0401 Automobiles, Personal Property – When a Nuisance

Unsheltered storage of old, used, stripped, junked and other automobiles not in good, safe operating condition, and of any other vehicles, machinery implements and/or equipment and personal property of any kind which is no longer safe for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in a licensed junk yard) within the City, and any motor vehicle, animal and article of personal property which constitutes an obstruction to, hazard or detriment to public traffic, snow removal operations, public safety and public health, or which may be abandoned or unclaimed within the City, is hereby declared to be a nuisance and shall be abated in the manner prescribed in this article.

12.0402 Abatement Required by Owners

The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of this City upon which such storage is made, and also the owner, /owners and /or lessees of the property involved

in such storage (all of whom are hereinafter referred to collectively as “owners”), shall jointly and severally abate the nuisance by the prompt removal of the personal property into completely enclosed buildings authorized to be used for storage purposes, if within the corporate limits of the City, or otherwise to remove it to a location outside of corporate limits.

12.0403 Abatement Required – Penalty for Failure

If the owners allow a nuisance to exist or fail to abate a nuisance they, and each of them upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) for each infraction and a separate infraction shall be deemed committed on each day during or on which the nuisance is permitted to exist.

12.0404 Removal and Impoundment by City

The police department may remove or cause to be removed to the City Hall, or any other place within the City selected for storage purposes, any personal property described in 12.0401, and may impound and retain the same until the expense of removal, storage and impounding is paid, together with the amount of any fine, costs, bail or other claims of the City against the owner, or any other person lawfully entitled to the possession thereof.

12.0405 Removal and Impoundment – When Sold

If not reclaimed and redeemed by the true owner or the person lawfully entitled to the possession thereof within a period of thirty (30) days after impounding, any article of personal property described in 12.0401 may be sold and disposed of by the police department in the manner hereinafter provided. Notice that such property will be sold shall be published once, at least (6) days prior to the sale, in the official newspaper. Such notice shall specify a description of the property to be sold and the time and place of sale. Any sale may be postponed or discontinued by public announcement at the time of the sale where there are not bidders or when the amount offered is grossly inadequate, or for other reasonable cause. The City may become a purchaser of any or all property at the sale. The chief of police shall give the purchaser at the sale a certificate of purchase of such property.

12.0406 Removal and Impoundment Proceeds

Within thirty (30) days after a sale, the person making the sale shall make out, in writing, and file with the City a full report of the sale, specifying the property sold, the amount received therefore, the amount of costs and expenses and the disposition of the proceeds of the sale. The proceeds arising from the sale shall be delivered to the city auditor and credited to the general fund.

ARTICLE 5 – Noxious Weeds

12.0501 Definition

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

12.0502 Weeds Prohibited

No owner of any lot, place or area within the City or the agent of such owner, shall permit on such lot, place or area and the one-half of any road or street lying next to the lands or boulevards abutting thereon, noxious weeds or other deleterious, unhealthful growths.

12.0503 Notice to Destroy

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

12.0504 Action Upon Non-Compliance

Upon the failure, neglect, or refusal of any owner or agent to cut, destroy and/or remove noxious weeds growing, lying or located upon the owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon, after receipt of the written notice provided for in 12.0503 or within five days after the date of such notice in the event the same is returned to the City because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the health officer is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or to order their removal by the City.

12.0505 Cost Assessed to Property

When the City has affected the removal of such noxious weeds or has paid for their removal, the actual cost thereof, if not paid by the owner prior thereto, shall be charged and assessed against the property upon which the noxious weeds were cut or destroyed. An assessment list showing the lots or tracts to be

assessed with the cost against each lot or tract shall be prepared as are other special assessment lists and shall be approved by the governing body. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law.

12.0506 Noxious Weeds

12.0506.1 Definition

All weeds and grasses growing upon any lot or parcel of land in the City to a height greater than 6 inches, or which have gone or are about to go to seed, shall be deemed noxious, dangerous and unhealthy vegetation, and are hereby declared to be a nuisance.

(Source: Ordinance No. 79; 2007)

12.0506.2 Duty to correct

The occupant, person in charge or owner of any parcel of land in the City shall have the duty to keep such lot, including any abutting city right-of-way or ditch, free of such vegetation nuisance by cutting, mowing, spraying, or removal as may be appropriate.

(Source: Ordinance No. 79; 2007)

12.0506.3 Notice to correct

1. The City Board of Health has the authority to require compliance and is responsible for requiring compliance with this article and all property within the city. The City Board of Health may cause public notice to be given requiring all lots or parcels of land in the city to be kept free from all vegetation declared to be a nuisance.

2. The notice shall provide that all vegetation determined to be a nuisance and left uncorrected may be cut, mowed, sprayed, or removed by the city and the cost thereof assessed against that property. To include the cost of levying such special assessment.

3. The notice may be by personal communication or by general public notice, published in the official newspaper once a week for two (2) consecutive weeks, and shall be deemed sufficient to allow those actions authorized.

4. The occupant, person in charge or owner of any lot or parcel of land shall, within three (3) days of the receipt of personal communication or the last public notice, cut, mow, spray, or remove, as appropriate, and vegetation which would constitute a nuisance.

(Source: Ordinance No. 79; 2007)

12.0506.4 May be corrected by City

1. If the occupant, person in charge or owner of any lot or parcel of land fails to correct any such vegetation nuisance as required, the City Board of Health, or its designate, may cause such vegetation to be cut, mowed, sprayed, or removed, as appropriate, and for such purpose, the person or persons, to do the same, may enter upon any lot or parcel of land.

2. It is a public offense for any such person to intentionally interfere with the cutting, mowing, spraying or removal of such vegetation nuisance, by physical force or violence.

(Source: Ordinance No. 79; 2007)

12.0506.5 Penalty clause; charges and special assessments of correction

1. Whenever the city corrects a vegetation nuisance by cutting, mowing, spraying, or removing, as appropriate, the owner, occupant, or person in charge of the property shall be billed for such correction. The charges for each correction shall amount to \$.05 per square foot of the lot or parcel exclusive of building, with a minimum charge of \$100.00 per lot.

2. If such bill is not promptly paid when due, the amount thereof may be assessed against the premises on which the correction work is done, and collected and returned in the same manner as other municipal taxes are assessed, certified, collected, and returned.

(Source: Ordinance No. 79; 2007)

ARTICLE 6. Signs.

12.0601 PURPOSES AND INTENT

The purposes of these sign regulations are: to encourage the effective use of signs as a means of communication in the City, to maintain and enhance the aesthetic environment; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations. It is the general intent to prohibit signs of a commercial nature from districts in which commercial activities are barred; to limit signs in the most restricted commercial district to those of an on-site variety and to control the number and area of such signs; and to control the number and area of signs in certain other districts.

12.0602 DEFINITIONS AND INTERPRETATION

Words and phrases used on this ordinance shall have the meanings set forth in this section. Words and phrases not defined in this section but defined in the Zoning Ordinance of the City shall be given the meanings set forth in such ordinance. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

- A. “Animated Sign.” Any sign that uses movement or change of lighting to depict action or create a special effect or scene.
- B. “Banner.” Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
- C. “Beacon” Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also may light with one or more beams that rotate or move.
- D. “Bench Sign.” Any sign affixed, painted or otherwise attached to a bench.
- E. “Building Marks.” Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into masonry surface or made bronze or other permanent material.
- F. “Building Sign.” Any sign attached to any part of a building, as contrasted to a freestanding sign.
- G. “Canopy Sign.” Any sign that is part of or attached to an awning, canopy, or other fabric plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

- H. “Changeable Copy Sign.” A sign or portion thereof with characters, letter or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times a day shall be considered an animated sign and not a changeable copy sign for purposes of the ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a “time and temperature” portion of a sign and not a changeable copy sign for purposes of this ordinance.
- I. “Commercial Message.” Any sign working, logo or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
- J. “Flag.” Any fabric, banner, or bunting containing destructive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.
- K. “Freestanding Sign.” Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
- L. “Incidental Sign.” A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone”, and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.
- M. “Lot.” Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer of ownership
- N. “Marquee.” Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
- O. “Marquee Sign.” Any sign attached to, in any manner, or made part of a marquee.
- P. “Monument Sign.” A sign where the extent of the sign surface is attached to the ground or a foundation in the ground; and where there are no poles, braces, or other visible means of support other than attachment to the ground.
- Q. “Nonconforming Sign.” Any sign that does not conform to the requirements of this ordinance.
- R. “Off-Site Sign.” A sign relating its subject matter to a location other than the premises on which the sign is located. Such signs include, but are not limited to billboards and bench signs.

- S. "Pennant." Any lightweight plastic, fabric, or other materials whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.
- T. "Person." Any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.
- U. "Portable Sign." Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
- V. "Principal Building." The building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.
- W. "Projecting Sign." Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.
- X. "Residential Sign." Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the zoning ordinance.
- Y. "Roof Sign" Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- Z. "Roof Sign, Integral." Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.
- AA. "Setback." The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.
- AB. "Sign." Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
- AC. "Street." A strip of land or way subject to vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property, including, but not limited to,

alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails or other thoroughfares.

AD. "Street Frontage." The distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

AE. "Suspended Sign." A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

AF. "Temporary Sign" Any sign that is used only temporarily and is not permanently mounted.

AG "Wall Sign." Any sign attached parallel to, but within six (6) inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building, and which displays only one sign surface.

AH. "Window Sign." Any sign, pictures, symbol, or combination thereof, designed to communicated information about an activity, business, commodity, event, sale, or service, that is placed into a window or upon the window panes or glass and is visible from the exterior of the window.

12.0603 UNLAWFUL SIGNS AND EXEMPT SIGNS

A. Unlawful Signs. It shall be unlawful to erect or maintain:

1. Any sign, outdoor commercial advertising or lighting device such as a beacon light or other sign constituting nuisance because of lighting glare, focus, animation, or flashing
2. Any sign which conflicts in any manner with the clear and obvious appearance of public signs and devices controlling traffic.'
3. Any sign placed or projected onto the right-of-way of any public street or alley.
4. Any sign placed in a manner as to materially impede vision between a height or two and one-half (2 ½) feet and ten (10) feet above the center grades of the intersecting streets within thirty (30) feet of the point of curvature of the intersecting street curbs.

5. Any notice, political poster or handbill, advertisement or any other sign upon any power or telephone pole, bridge, fire hydrant, official public sign, tree, or in any portion of a public right-of-way.
6. Vehicles that are not in operating condition and/or lacking current registration as well as vehicles that are in operating condition which are being utilized as part of a sign scheme and are located on private property or public property (including right-of-ways.) For the purpose of this ordinances, regardless if the vehicle is permanently mounted, affixed, or attached to the structure or remains unattached, it is included within this provision.

B. Exempt Signs. The following shall not be included in the application of the regulations herein:

1. Address signs or Nameplates – Signs not exceeding one (1) square feet in an area for single and two-family dwellings and four (4) square feet in area for multiple dwellings and bearing only property numbers, post box numbers, or names of occupants or premises.
2. Flags and insignia of any government except when displayed in connection with commercial promotion.
3. Legal notices, identification information, or directional signs erected by government bodies.
4. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
5. Subdivision or Tract Name Signs – One (1) non-illuminated sign not to exceed thirty-two (32) square feet in area or two(2) non-illuminated sign not to exceed sixteen (16) square feet per each exclusive entrance to a subdivision or tract. Such sign shall be restricted to the subdivision or tract name.
6. Developmental Signs – A temporary sign for an area opening for development, provided such sign is thirty-two (32) square feet or less.
7. Real Estate Signs – Signs advertising the sale, lease or rental of the premises upon which the sign is located, provided there is one sign per street frontage not exceeding nine (9) square feet in residential districts or thirty-two (32) square feet in other districts.
8. Institutional Signs – One sign or bulletin board per street front, setting forth or denoting the name of any public, charitable, or religious institution when located on the premises of such institution, provided such sign or bulletin board shall not exceed twenty-four (24) square feet in area.

9. Construction Signs – Signs denoting the business or professional firm involved with the financing or construction of the project and placed on the premises where construction, repair or renovation is in progress. Such sign shall not exceed sixteen (16) square feet in area residential districts and thirty-two (32) square feet in other districts. Only one financing sign and one construction sign for each premises shall be allowed.
10. Special Event Signs – Portable signs, inflatable signs, tethered balloons and wind signs may be erected on the premises of an establishment having a grand opening or special event, provided that such sign shall be displayed for a period of not to exceed fourteen (14) calendar days within any four (4) month period.
11. Political Signs provided such sign or total area of all such sign shall not exceed thirty-two (32) square feet in area on any lot.
12. Roadside Market Signs advertising produce grown and sold on the premises on which they are located, provided such signs shall not exceed thirty-two (32) square feet in area or be displayed for a period exceeding six (6) months of any calendar year.
13. Vehicles regularly and customarily used to transport persons or property for the business.
14. Home Occupation Signs – One non-illuminated sign with the surface area not exceeding one (1) square foot and mounted flat against the wall of the principal building.
15. Bench Signs shall be exempt from the provisions of the ordinance, but only if such signs are permitted by a separate franchise ordinance with the City and the signs are placed pursuant to the restrictions and limitations set forth in the franchise ordinance.

12.0604 COMPUTATION OF SIGN AREA AND HEIGHT

The following principles shall control the computation of sign area and height:

- A. Computation of Area of Individual Signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the back ground of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

- B. Computation of the Area of Multifaceted Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one of the faces.

- C. Computation of Height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to the construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

12.0605 BUILDING PERMITS REQUIRED FOR SIGNS

Unless specified herein, no person shall erect, alter, reconstruct, or relocated any sign without first obtaining a sign permit for such work from the City Council. When sign permit has been issued by the City Council, it shall be unlawful to change, modify, alter or otherwise deviate from the terms or condition of said permit without prior approval of the City Council. A written record of such approval shall be entered upon the original permit application and maintained in the files of the City.

12.0606 SIGNS IN AGRICULTURAL AND RESIDENTIAL DISTRICTS

No signs are allowed in Agricultural and Residential Districts except On-Site Signs used in connection with the following:

- A. A lawfully maintained nonconforming use, in which case said sign(s) shall conform to the requirements set forth in a conditional use, in which case signage shall conform to whatever restrictions may be imposed by the City Council in authorizing the conditional use permit.

- B. An approved conditional use, in which case said sign(s) shall conform to whatever signage restrictions may be imposed by the City Council in authorizing the condition use permit, however, in no case shall the requirements be less restrictive than those set forth below. The provisions would include, but not be limited to Development Signs for an area opening for development, which would be greater than thirty-two (32) square feet in area.

12.0607 SIGNS IN LIGHT COMMERCIAL DISTRICTS

Signs in light Commercial Districts shall be permitted as follows: On-Sit Signs with number and surface area limited by the following formula: for each five (5) lineal feet of lot frontage on a public street, a maximum of one sign and ten (10) square feet of surface area is permitted. The total surface area permitted may also be used in a lesser number of signs than the maximum permitted, but the maximum number shall not be exceeded even though the total permissible surface area is not used. [The maximum size of any individual sign shall be one hundred (100) square feet in area. “Animated Signs” and “Changeable Copy Signs” shall be reviewed as a conditional use to determine if the sign would or would not be constituting a nuisance because of lighting glare, focus, animation or flashing.]

12.0608 NONCONFORMING SIGNS

Any sign that would be permitted under this ordinance only with a sign permit, but which was in existence upon adoption of the ordinance and was constructed in accordance with this ordinance and other applicable laws in effect on the date of its construction, but which by reason of its size, height, location, design, or construction is not in conformance with the requirements of this ordinance, the following provisions shall apply:

- A. The sign shall be brought into conformance with the provisions of the ordinance when any proposed change, repair, or maintenance would constitute an expense of more than twenty-five (25) percent of the lesser of the original value or replacement of the sign.
- B. No new non-exempt signs for any lot shall be installed while a nonconforming on-site sign remains in use.
- C. Any nonconforming on-site sign shall be removed if there is a change in use or business license for the property in which the sign is located.
- D. No modifications to the sign or message of nonconforming “on-site” signs shall be allowed; however, routine maintenance shall be allowed.
- E. Any nonconforming sign which are temporary in nature and/or are not permanently mounted shall be removed within six (6) months of the adoption of this ordinance.
- F. Any nonconforming on-site sign shall be removed if a building permit is issued for the reconstruction, renovation or addition to the principal structure(s) which would exceed fifty (50) percent of the current replacement cost of the structure(s).

12.0609 MAINTENANCE AND REMOVAL

The Reile’s Acres City Council shall inspect and have the authority to order the repair, alteration or removal of a sign which shall constitute a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

12.0610 PENALITES FOR VIOLATION

Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in the ordinances of the City of Reile’s Acres. Each day such violation continues shall be considered a separate offense.

(Source: Ordinance No. 63; 2002)

12.0701 UNLAWFUL TOWERS, EXCEPTION.

It shall be unlawful to erect or maintain any tower [including windmills or wind towers] more than five (5’) feet higher than the principal building on each lot without prior approval of the City Council based upon written application setting forth all circumstances of the proposed structure. Windmills and wind towers can only be erected with prior approval by City Council and consent of all abutting landowners. Proposed radio, communications, and television transmission towers, including station offices and studios, are still subject to the following conditions:

A. Transmitter towers: The following ratios of distances shall apply to all freestanding and guyed radio, communications, and television transmitter towers:

The number of levels of guys along the height of the tower	Ratio of the height of the tower to the distance from the base to the property line
2 or less	1.1
3	3.2
4	2.1
5	5.2
6 or more	3.1

B. When guyed towers are used, all anchor points from the guys must be on the same property as the tower. All towers must meet the requirements of the North Dakota Uniform Building and Mechanical Codes and amendments thereafter. For the purpose of protecting public safety and welfare, additional standards may be suggested by the Zoning Administrator as a condition attached to any permit issued.

CHAPTER THIRTEEN

BUILDING CODE

ARTICLE 1 – General Building Code

15.0101 Adoption of Code

15.0102 Amendments, Deletions, Additions to Code

15.0103 Clarification of Code

15.0104 Fees

CHAPTER THIRTEEN

ADOPTED BUILDING CODES

13.0101 Adoption of Codes

The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area and maintenance of buildings or structures in the City of Reile’s Acres or in the extraterritorial areas of the City of Reile’s Acres shall meet with the provisions of the rules and regulations of the International Building Code, The International Property Maintenance Code, The International Residential Code, The International Existing Building Code, The International Energy Conservation Code, The International Fuel Gas Code, The International Mechanical Code, North Dakota State Plumbing Code and the State of North Dakota Electrical Code and any future updates and amendments to that code. copies of which are on file with the City Auditor and are hereby made a part of this chapter by reference with the exception of the sections hereinafter set forth affecting local conditions in the City, which are amended, deleted, or added to, for use and application in the City, and the City hereby adopts said code as so modified.

(Source: Ordinance No. 65; 2002)

13.0102 Amendments, Deletions, Additions to Code

Sec. _____ shall be amended to read as follows:

Sec. _____ shall be deleted.

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

13.0103 Clarification of Code

For the purpose of clarifying the Building Code adopted above.

1. “Municipality” or “City” shall mean the City of Reile’s Acres, Cass County, North Dakota.
2. Any reference to fire limits within the City shall mean the fire limits set out in Chapter Four.

(Source: Ordinance No. 65; 2002)

13.0104 Fees

Fees under the Building Code shall be set by resolution of the city council and will be updated on the City of Reile’s Acres Building Permit Application

CHAPTER FOURTEEN

FRANCHISE

ARTICLE 1 – Grant of Franchises

- 14.0101 Power to Grant
- 14.0102 Compliance with Applicable Laws and Ordinances
- 14.0103 Indemnification
- 14.0104 Insurance

CHAPTER FOURTEEN
FRANCHISE

ARTICLE 1 – Grant of Franchises

14.0101 Power to Grant

The governing body may grant to any person, firm, partnership, association, corporation, company or organization of any kind a franchise or special right or privilege to operate or do business in the City, but such franchise shall be subject to the provisions of this article. (Source: North Dakota Century Code Section 40-05-01- (57))

14.0102 Compliance with Applicable Laws and Ordinances

The grantee of any franchise during the life of the franchise shall be subject to all lawful exercise of the police power of the City, and to such reasonable regulation, as the City shall be resolution or ordinance provide.

14.0103 Indemnification

The grantee of any franchise shall indemnify and save the City and its agents and employees harmless from all and any claims for personal injury or property damages and any other claims, costs, including attorney’s fees, expenses of investigation and litigation of claims and suits thereon which may result from the activities of the grantee of the franchise in the City.

14.0104 Insurance

Any grantee of a franchise by the City shall carry and keep in force a public liability policy of insurance, insuring the grantee of the franchise and the City against any and all liability, of not less than two hundred fifty thousand dollars (\$250,000.00) for any one person, property damage, personal injury, or death, and five hundred thousand dollars (\$500,000.00) for any one accident resulting in property damage, personal injury, or death. The City may demand proof of such insurance coverage in an insurance company licensed to do business in the State of North Dakota. (Source: North Dakota Century Code Section 32-12.1-03)

14.0105 Franchise(s) granted

14.0105.1 Northern States Power.

14.0105.1.1 DEFINITIONS

For the purpose of this section, certain terms, words and phrases are defines as follows:

- A. “City” shall mean the City of Reile’s Acres, County of Cass, State of North Dakota.
- B. “City Utility System” shall mean the facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer

and water service, but excluding facilities for providing heating, lighting or other forms of energy.

- C. "Company" shall mean Northern States Power Company, a Minnesota corporation, its successors and assigns.
- D. "Gas" as used herein shall be held to include natural gas, manufactured gas, or other form of gaseous energy.
- E. "Notice" shall mean a writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to the General Manager and Chief Executive, NSP-North Dakota, P.O. Box 2747, Fargo, North Dakota 58108. Notice to City shall be mailed to the City Auditor, P.O. Box 2612, Fargo, North Dakota 58108. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.
- F. "Public Ground" shall mean land owned by the City for park, open space or similar purpose, which is held for use in common by the public.
- G. "Public Way" shall mean any street, alley, walkway or other public right-of-way within the City.

(Source: Ordinance NO. 51; 1998)

14.0105.1.2 GRANT OF FRANCHISE

City hereby grants Company, for a period of 20 years from the date hereof, the non-exclusive right and privilege of erecting a gas distribution system and using the Public Ways and Public Grounds of City for the purpose of constructing, operating, repairing, and maintaining in, on, over, under and across the same, all gas pipes, mains and appurtenances usually, conveniently, or necessarily used in connection therewith, for the purpose of the transmission of gas, or the distribution boundaries exist or as they may be extended in the future. Company may also do all reasonable things necessary or customary to accomplish these purposes, subject, however, to the further provisions of this franchise agreement.

(Source: Ordinance NO. 51; 1998)

14.0105.1.3 RESTRICTIONS

- A. All gas pipes, mains, regulators, and other property and facilities shall be located and constructed so as not to interfere with the safety and convenience of ordinary travel along and over said Public Ways. Company's construction, other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise

agreement. Company may abandon underground gas facilities in place, provided at City's request Company removes abandoned metal pipe interfering with a City improvement project to the extent such metal pipe is uncovered as part of the City improvement project.

- B. Company shall not construct any new or modified installations within or upon any public Grounds without receiving the prior written consent of an authorized representative of City for each such new installation.

- C. In constructing, removing, replacing, repairing, or maintaining said gas pipes, mains and appurtenances, Company shall, in all cases, place the Public Ways in, on, under or across which the same are located in as good condition as they were prior to said operation and maintain any restored paved surface in such condition for two years thereafter. City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the city's permission to install, replace or maintain facilities in a Public Way.

(Source: Ordinance NO. 51; 1998)

14.0105.1.4 SERVICE AND RATES

The service to be provided and the rates to be charged by Company for gas service in City are subject to the jurisdiction of the North Dakota Public Service Commission or its successor agency.

(Source: Ordinance NO. 51; 1998)

14.0105.1.5 RELOCATING

- A. Whenever City at its cost shall grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System therein and shall, in the proper exercise of its police power, and with due regard to seasonable working conditions, when necessary, and after approval of its final plans have been obtained, order Company to relocate permanently its mains, services, and other property located in said Public Way, Company shall relocate its facilities at its own expense. City shall give Company reasonable notice of plains to grade, regrade or change the line of any Public Way or to construct or reconstruct any City Utility System therein. However, after company has so relocated, if a subsequent relocation or relocations shall be ordered within five years from and after first relocation, City shall reimburse Company for such non-betterment relocation expense which Company may incur on a time and material bases; provided, if subsequent relocations are required because of the extension of City Utility System to previously unserved areas, Company may be required to relocate at its own expense at any time.

- B. Nothing contained in this franchise shall require Company to relocate, remove, replace or reconstruct at its own expense its facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or city Utility System or other City improvement.
- C. Any relocation, removal, or rearrangement of any Company facilities made necessary because of the extension into or through City of a federally-aided highway project shall be governed by the provisions of North Dakota law as supplemented or amended; and further, it is expressly understood that the right herein granted to Company is a valuable property right and City shall not order Company to remove or relocate its facilities without compensation when a Public Way is vacated, improved or realigned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such a relocation and the loss and expense resulting there-from are first paid to Company.
- D. The provisions of this franchise shall not be construed to waive or modify any rights obtained by company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Way or Public Ground was established, or Company's rights under state or county permit.

(Source: Ordinance NO. 51; 1998)

14.0105.1.6 INDEMNIFICATION

- A. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, and the issuance of permits, or the operation of the gas facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonable deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.
- B. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but company may not settle such litigation without the consent of the City, which consent shall not be unreasonable withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City; and Company, in defending any action on behalf of the city shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. Company agrees to maintain liability insurance or self insurance in an amount not less than five million dollars

(\$5,000,000) or in such greater amount as any be required by the Public Service Commission.

(Source: Ordinance NO. 51; 1998)

14.0105.1.7 VACATION OF PUBLIC WAYS

The city shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required solely for a City improvement project, the vacation of any Public Way, after the installation of gas facilities, shall not operate to deprive Company of its rights to operate and maintain such gas facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under North Dakota law.

(Source: Ordinance NO. 51; 1998)

14.0105.1.8 WRITTEN ACCEPTANCE

Company shall, if it accepts this Ordinance and the rights and obligation hereby granted, file a written acceptance of the rights hereby granted with the City Auditor within 90 days after the final passage and any required publication of this Ordinance.

(Source: Ordinance NO. 51; 1998)

14.0105.1.9 GENERAL PROVISIONS

- A. Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.
- B. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret

and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

- C. This Ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way insure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.
- D. Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.
- E. Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Company's facilities while performing any activity.

(Source: Ordinance NO. 51; 1998)

14.0106 Cable television

14.0106.1 STATEMENT OF PURPOSE

- A. It is the purpose of this ordinance to promote the public safety and general welfare, and to minimize public and private losses and inconvenience due to the installation and operation of a community television antenna system.
- B. In order to accomplish its purpose, this ordinance includes provisions for the installation, operation, and removal of a community television system within the City both on public and private property.

(Source: Ordinance NO. 23; 1991)

14.0106.2 DEFINITIONS

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "City" is the City of Reile's Acres, North Dakota
- B. "Company" is the grantee of rights under the franchise.
- C. "Council" is the City Council of the City of Reile's Acres, North Dakota.
- D. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- E. "Cable Television System" means a system employing antenna, microwave, wires, wave guides, coaxial cables or other conductors, equipment or facilities, designed, constructed or used for the purpose of:
 - 1. collecting and amplifying local or distant broadcast television or radio signals and distributing and transmitting same;
 - 2. Transmitting original cablecast programming not received through television broadcast signals;
 - 3. Transmitting television pictures, film and videotape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers, for transmitting and receiving all other signals: digital, voice and audio-visual;

provided, however, that any of the services, permitted hereunder to be performed, as described above, shall be those performed by the Company for subscribers, as herein defined, in the operation of a cable television system franchise by the City and not otherwise, and provided further that such term shall not include any such facility or system that serves only residents of one or more apartment dwellings or commercial establishments under common ownership, control or management.

- F. "Gross subscriber revenues" means all revenue derived and collected from subscribers or users both basic service or pay service fees or rates, but such revenues exclude money received by the company for installation and related costs.
- G. "Basic service" means the simultaneous delivery by the Company to the television, radio or other appropriate communications receiver of a subscriber of all signals of over-the-air broadcasters required by the Federal Communications Commission or by this article to be carried by the cable television system of the Company, together with such additional public, educational, governmental, leased or other access channels or signals as may be likewise required, but not including pay or subscription television as defined by the Federal Communications Commission.
- H. "Pay Service" means all other programming carried by the Company not included in their basic service.

(Source: Ordinance NO. 23; 1991)

14.0106.3 GRANT OF AUTHORITY

There is hereby granted by the City to the company named by Council Resolution the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a community television transmission system for the origination, and related communication services.

- A. NON-EXCLUSIVE GRANT. The right to use and occupy said streets, alleys, public ways and places for the purpose herein set forth shall be non-exclusive; also, the City reserves the right to revoke the franchise for the reasons and in the manner set out in Section 23.0121 hereafter.

(Source: Ordinance NO. 23; 1991)

14.0106.4 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Company shall, at all times during the life of the franchise be subject to all lawful exercise of the police power by the City, and to present Ordinances and such reasonable regulation as the City shall hereafter by Ordinance provide.

(Source: Ordinance NO. 23; 1991)

14.0106.5 COMPANY LIABILITY—INDEMNIFICATION

The Company shall, at all times, save the City harmless from and against any and all damages, lawful claims and demands for injury to person or property which may be made against the City in any manner growing out of the maintenance or operation, or both, of such television antenna system or any equipment of the Company, and in case suit shall be filed against said City, either independently or jointly with said Company, to recover for any said claim to damages, said Company, upon notice to it by said City, shall defend said City against said action and in the event of a final judgment being obtained against said City, either independently or jointly with said Company on account solely of the acts of said Company aforesaid, the said Company will pay said judgment and all costs and hold the City harmless there from.

(Source: Ordinance NO. 23; 1991)

14.0106.6 SERVICE STANDARDS

The Company shall maintain and operate its system and render efficient service in accordance with the rules and regulations as are, or may be set forth by the council, or by the proper federal and/or state regulatory body.

- A. **NOTICE OF INTERRUPTION FOR REPAIRS.** Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the Company shall do so at such time as will cause the least amount of inconvenience to its customers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its customers.
- B. **REMOVAL OF SERVICE.** The Company shall, upon the request of any subscriber, promptly remove all wires and equipment from the premises of such subscriber at no expense to such subscriber.
- C. **INTERFERENCE.** The Company shall at times operate the cable system so as not to interfere with existing reception and shall meet or exceed FCC radiation standards.
- D. **SYSTEM LOCATION.** The Company shall furnish the city maps or prints showing the pole line and underground system in sufficient detail to assure the City of being currently advised as to the location of the cables of the system. It shall be the responsibility of the company to keep the City advised of any and all changes and additions and removals in the system except for the individual subscriber's connection wires.
- E. **SIGNAL PROVIDED TO SUBSCRIBERS.** Installation and maintenance of equipment shall be such that standard color signals shall be transmitted to any subscriber receiver.
- F. **NUMBER OF CHANNELS.** The Company shall provide a system hereunder capable of distributing at least fifteen (15) television channels with two-way amplifier in accordance with the best accepted standards of the industry.
- G. **LIABILITY FOR INTERRUPTION OF SERVICE.** The Company shall not be liable for any failure or interruption of service caused by or proximately resulting from strike, riots, wars, acts of God, fire, failing aircraft or other objects, failure of the microwave relay system transmitting the television signal to the Company's distribution system or any other cause beyond control of the company, or any law, ordinance, or regulation of civil or military authority restricting or prohibiting the use and operation for the system by the Company.

(Source: Ordinance NO. 23; 1991; Ordinance No. 39; 1992 (F))

14.0106.7 COMPANY RULES

The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of laws of the State of North Dakota and, if required by law, shall be subject to approval by proper Federal and/or State Regulatory Body.

(Source: Ordinance NO. 23; 1991)

14.0106.8 CONDITIONS ON STREET OCCUPANCY.

- A. **USE.** All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. Locations are subject to approval by the City engineer.
- B. **RESTORATION.** In case of any disturbance of pavement, sidewalk, driveway or any other surfacing, the Company shall, at its own cost and expense and in a manner approved by the City engineer, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced.
- C. **RELOCATION.** In event that at any time during the period of this franchise the City shall lawfully elect to alter, or change the grade of, any street, alley or other public way, the Company upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes and telephone or other fixtures at its own expense in locations to be approved by the City engineer.
- D. **PLACEMENT OF FIXTURES.** The Company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main, and all such poles or other fixtures, placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said street, alleys and public ways. Locations are to be approved by the City engineer.
- E. **TEMPORARY REMOVAL OF WIRE FOR BUILDING MOVING.** The Company shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require such

payment in advance. The Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

- F. **TREET TRIMMING.** The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the company, all trimming to be done with the approval, and under the supervision and direction of the City Park Committee and at the expense of the Company.

(Source: Ordinance NO. 23; 1991)

14.0106.9 PERFERENTIAIAL OR DISCRIMINATORY PRACTICES PROHIBITED

The Company shall not, as to rates, charges, service facilities, rules, regulations, or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

(Source: Ordinance NO. 23; 1991)

14.0106.10 EXTENSION POLICY

The Company shall file with the City engineer its plan setting forth the stages by which it intends to extend its service into the various area of the City. This extension plan shall be filed with the City engineer as soon as it has been formulated by the Company. No installation of facilities shall commence until the engineer has approved the extension plan. Subsequent extensions proposed by the company shall be submitted to and approved by the City engineer proper to the installation of facilities.

(Source: Ordinance NO. 23; 1991)

14.0106.11 EXTENSION BY ANNEXATION

Upon the annexation of any territory to the City, the portion of any said utility that may be located or operated within such territory and upon the street, alleys or public grounds thereof, shall thereafter be subject to all the terms of this grant as though it were an extension made there under.

(Source: Ordinance NO. 23; 1991)

14.0106.12 APPROVAL OF TRANSFER

The Company shall not sell or transfer its plant or system to another, nor transfer any rights under the franchise to another without Council approval, except that if the applicants are originally an association, should incorporate, such transfer may be made to the newly –formed corporation without Council approval. Provided, that no sale or transfer shall be effective until the vendee, assignee or lessee has filed in the office of the city auditor an instrument, duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of the franchise, and agreeing to perform all the condition s thereof.

(Source: Ordinance NO. 23; 1991)

14.010.13 CITY RIGHTS IN FRANCHISE

- A. CITY RULES. The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and existing applicable Ordinances, such additional regulations as it shall find necessary in the exercise of the police power, provided that such regulations, by Ordinance, shall be reasonable, and not in conflict with the right herein granted, and shall not be in conflict with the laws of the United States and the State of North Dakota.
- B. USE OF SYTEM BY CITY. The City shall have the right, during the life of this franchise, free of charge, where aerial construction exists, of maintaining upon the poles of the Company within the City limits wire and pole fixtures necessary for a police and fire alarm system, such wires and fixtures to be constructed and maintained to the satisfaction of the company and in accordance with its specifications.

- 1. Compliance with Company Rules.

The City in its use and maintenance of such wires and fixtures, shall at all times comply with the rules and regulations of the Company so that there may be a minimum danger of contact or conflict between the wires and fixtures of the Company and the wires and fixtures used by the City.

2. Liability.

The City shall be solely responsible for all damage to persons or property arising out of the construction or maintenance of said wires and fixtures authorized by this section and shall save the Company harmless from all claims and demands whatsoever arising out of the attachment, maintenance, change or removal of said wires and fixtures to the pole of the Company. In case of rearrangement of the company plant or removal of poles or fixtures the City shall save the company harmless from any damage to persons or property arising out of the removal or construction of its wires or other fixtures.

- C. SUPERVISION AND INSPECTION. The City engineer shall have the right to supervise all construction or installation work performed subject to the provisions of this Ordinance and to make such inspections as he shall find necessary to insure compliance with governing Ordinances.
- D. PROCEDURES AT TERMINATION OF FRANCHISE FOR JUST CAUSE. At the end of the term of this franchise the City shall have the right to determine whether the Company shall continue to operate and maintain its distributing system. At the option of City, the Company shall remove all portions of the installation, including the poles and underground conduits, at no expense to the City.
- E. CONTRACTS WITH PUBLIC UTILITY FIRMS. All contracts between the Company and public utility firms relating to the use of public utility poles and equipment situated on public property, shall be subject to the approval of the City.

(Source: Ordinance NO. 23; 1991)

14.0106.15 RATES

Rates charged by the Company for service hereunder shall be fair and reasonable and designed to meet all necessary costs of the service, including a fair rate of return on the valuation of its properties devoted thereto under efficient and economical management. The Company agrees that it shall be subject to all authority now or hereafter possessed by the Body, or any other regulatory body having competent jurisdiction, to fix just, reasonable and compensatory television signal distribution rates.

(Source: Ordinance NO. 23; 1991)

14.0106.16 RECORDS AND REPORTS

The City shall have access at all reasonable hours to all of the Company's plans, contracts, and engineering, statistical, customer and service records relating to the property and the operation of the records and reports shall be filed with the City Auditor and in the local office of the Company.

- A. **COMPANY RULES AND REGULATIONS.** Copies of such rules, regulations, terms and conditions adopted by the Company for the conduct of its business.

- B. **GROSS REVENUE.** An Annual Summary Report showing gross revenues received by the Company from its operations within the City during the preceding year and such other information as the City shall request with respect to properties and expenses related to the Company's service within the City.

(Source: Ordinance NO. 23; 1991; Ordinance No. 39;1992)

14.0106.17 TERMS OF FRANCHISE

The franchise and rights herein granted shall take effect and be in force from and after the final passage hereof, as required by law, upon the signing of a franchise agreement, and upon filing of acceptance by the Company with the City Auditor and shall continue in force and effect for a term of twenty-five (25) years after the effective date of the franchise. Provided, that if the acceptance is not filed as hereinafter provided, the provisions of the franchise shall be null and void.

(Source: Ordinance NO. 23; 1991)

14.0106.18 PUBLICATION COSTS

The Company shall assume the cost of publication of this franchise as such publication may be required by law. A bill for publication costs shall be presented to the Company by the City Auditor upon the Company's filing of acceptance and shall be paid at that time.

(Source: Ordinance NO. 23; 1991)

14.0106.19 INSURANCE

The Company shall obtain and file with the City Auditor of the City of Reile's Acres and continue to keep the same in full force and effect during the period of this grant, liability insurance policy or policies,

or bond or bonds or indemnity as the Company may elect, conditioned for the benefit of persons suffering injury, loss or damage in person or property, by virtue of the negligent operation of said television antenna system by said Company, which policy or policies of indemnity shall be in Companies to be approved by the City Council of the City of Reile's Acres such liability policy or policies shall be in the sum of not less than one million dollars (\$1,000,000) combined limits for property damage and bodily injury or death. The insurance policy shall name the City of Reile's Acres as an additional named insured and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City of Reile's Acres at least ten (10) days prior written notice. The insurance shall be through a responsible company qualified to do business in North Dakota. Insurance on bonds to the amount required in this ordinance shall be in effect during the entire time said television antenna system is in operation under this grant. The Company shall also carry workmen's compensation coverage for all of its employees subject to such coverage. The Company shall submit to the City Auditor a certificate from the Workmen's Compensation Commissioner showing that workmen's compensation is in effect.

(Source: Ordinance NO. 23; 1991; Ordinance No. 39; 1992)

14.0106.20 MANNER OF GIVING NOTICE

Whenever notice is required to be given by the City to the Company, it may be given by leaving a paper writing thereof during the ordinary hours at the principal office of the company in the City. Whenever the company is required to give notice to the City, it shall do so by leaving a paper writing thereof at the office of the City Auditor during ordinary business hours.

(Source: Ordinance NO. 23; 1991)

14.0106.21 REDRESS

In case of the failure of the Company to perform and carry out any of the stipulations and agreements herein set forth in any substantial particular, and with respect to which redress is not otherwise herein provided, the City acting by and through the Council may, after hearing, determine such substantial failure, and thereupon, after notice given the Company of such determination, the company shall have ninety (90) days' time in which to remedy the conditions respecting which such finding shall have been made. After the expiration of such ninety (90) days period and failure to correct such conditions, the City Council shall have authority to revoke the franchise, provided, however, that before the franchise may be terminated and cancelled the Company shall be provided with an opportunity to be heard before the Council.

In the event of such revocation or termination of a franchise, the Company shall at a request of the City, at its own expense and within a reasonable time as determined by the Council remove any poles, wires, cable and related appurtenances constructed or installed and shall leave the streets and public ways in as good condition as they were prior to said installation.

(Source: Ordinance NO. 23; 1991)

14.0106.22 REVIEW OF PERFORMANCE

The City may review the franchise performance of the Company every five (5) years during the term of the franchise. The City may include in such review the following: (a) reports of program and service surveys and customer and subscriber satisfaction, including local access programming, and efforts of the Company to promote such programs; (b) files of all complaints since the last franchise review was established, including the resolution; (c) such other reports, plans, evaluations or input the City Council may consider helpful in reviewing the performance of the Company.

(Source: Ordinance NO. 23; 1991)

14.0106.23 VIOLATIONS

- A. **NEED FOR FRANCHISE.** It shall be unlawful for any person to construct, install or maintain within any public street in the City, or within any other public property of the city or within any privately owned area within the City which has not yet become a public street, but is designed or delineated as a proposed public street on any tentative subdivision map approved by the City, any equipment or facilities for distributing any television signals or radio signals through a cable television system, unless a franchise authorizing such use of such street or property or area has first been obtained pursuant to the provisions of this article, and unless such franchise is in full force and effect.

- B. **PAYMENT FOR USE REQUIRED.** It shall be unlawful for any person, firm or corporation to make or use any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of enabling himself or others to receive or use any television signal, radio signal, picture, program or sound, without payment to the owner of said system.

- C. **OWNER PERMISSION REQUIRED.** It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

(Source: Ordinance NO. 23; 1991)

14.0106.24 PENALTIES

- A. **PENALTIES FOR INFRACTIONS.**
 - 1. Any person, firm, or corporation violating any of the terms or provisions of this ordinance shall, upon conviction, be punished by a fine not to exceed

\$500 or by imprisonment not to exceed 30 days, or both such fine and imprisonment, in the discretion of the Court; the Court to have power to suspend said sentence and to revoke the suspension thereof; provided, that where a specific penalty is prescribed in any section, that penalty shall control; and provided further, that where a specific fee is prescribed under any section, for non-criminal infractions, that fee or penalty shall control. Each day any person, firm, association or corporation shall violate any of the provisions of this ordinance shall constitute a separate offense or infraction.

2. If any person, firm or corporation does not pay a fine, or make any required partial payment, the Court, upon motion of the prosecutor or on its own motion, may issue an order to show cause why the defendant should not be imprisoned for non-payment. Unless the defendant shows that his default is excusable, the Court may punish him by an additional fine not to exceed \$500 or by imprisonment not to exceed 30 days, or both such fine and imprisonment, in the discretion of the Court.
3. Violations of this ordinance are non-criminal infractions and shall carry the penalty of paying a fine as is designated hereinafter. The fees required for a non-criminal disposition pursuant to either North Dakota Century Code Section 39-06.1-02 or 39-06.1-03 shall be as follows: A fee of \$20.00

(Source: Ordinance NO. 23; 1991)