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CHAPTER ONE
GOVERNMENT ORGANIZATION
MAYOR – COUNCIL CITIES

ARTICLE 1 - Jurisdiction

1.0101 **Over Persons and Property**

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

1.0102 **Defining City Limits**

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

1.0103 **Division of City at Large**

There shall be no precincts within the City. Be it ordained by the City Council of the City of Wishek that members of the City Council elected or appointed the effective date of this ordinance shall be elected at large rather than from a specific ward, and may be appointed by the mayor from any portion of the City to fill a vacancy.

1.0104 **City Fines and Penalties Limited**

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

ARTICLE 2 - Governing Body - City Council

1.0201 **Regular Meetings**

The City Council shall meet regularly at the City Hall on the ~~(first)~~ (Monday) of each month at the hour of 5:00pm unless some other time and place shall be specifically fixed by the council. The council shall meet in addition thereto, as often as required by section 40-08-10 of the North Dakota Century Code.

1.0202 **Special Meetings**

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

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

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

1.0204 Quorum

The provisions of section 40-06-03 of the North Dakota Century Code and all subsequent amendment are hereby incorporated by reference in this ordinance. A majority of the members of the governing body of a municipality shall constitute a quorum to do business but a smaller number may adjourn from time to time. The governing body may compel the attendance of absentees under such penalties as may be prescribed by ordinance, and may employ the police of the municipality for that purpose.

1.0205 Reconsidering or Rescinding Votes at Special Meeting

The provisions of section 40-06-04 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. No vote of the governing body of a municipality shall be reconsidered or rescinded at a special meeting unless there is present at such special meeting as large a number of members as were present when such vote was taken.

1.0206 Rules and Order of Business

Rules and order of business for the parliamentary government of the governing body shall be governed by Robert's Rules of Order. (Source: North Dakota Century Code section 40-06-05)

ARTICLE 3 - Elective Officers

1.0301 City Council - Who Constitutes

The governing body of the City shall be the City Council which shall be composed of the mayor and six council members. The mayor and six 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 within fifteen (15) days and before 4:00 p.m. of the fifteenth (15th) day of the date of such vacancy or of the vacancy being filled by appointment. If the petition is mailed, it shall be in possession of the council or its representative before 4:00 p.m. on the fifteenth (15th) day after the vacancy occurs or after the vacancy was filled by appointment. (Source: North Dakota Century Code section 40-08-08)

If a vacancy occurs in the office of mayor, the City Council may call a special City Election to fill such vacancy for the unexpired term or may, after fifteen days from the date of such vacancy, elect one of its members to act as mayor, the member so elected shall possess all of the rights and powers of the mayor until the next election and until a mayor is elected and qualified. Upon petition of five percent of the electors, as determined by the total number of votes cast in the City in the last General Election, the council shall call a special election to fill a vacancy occurring more than six months prior to the next City Election, provided such petition is submitted within fifteen days of the date of such vacancy. During the interim between date when a vacancy occurs in the office of the mayor and election and qualification of a successor, the president of the City Council shall be acting mayor. (Source: North Dakota Century Code section 40-08-16)

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

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

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

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

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

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

1.0309 Mayor may Suppress Disorder and Keep Peace

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

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

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

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

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

1.0312 Ordinance or Resolution Signed or Vetoed by Mayor

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

1.0313 Message to Council

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

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

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

1.0315 Police Chief and Policemen Appointed by Mayor

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

1.0316 Mayor May Administer Oath

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

ARTICLE 4 - Elective Officers Other Than Governing Body

1.0401 Municipal Judge

There shall be elected each four years a municipal judge who shall hold office until a successor is elected and qualified. The municipal judge shall perform all the duties prescribed by law and the ordinances of this City. The municipal judge shall receive a salary as full compensation for all services rendered. (Source: North Dakota Century Code sections 40-14-01, 40-14-02, and 40-18-06)

1.0402 Report to the City Auditor

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

1.0403 Fees to City Treasury

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

1.0404 Court Hours

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

1.0405 Duties of Municipal Judge

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

ARTICLE 5 - Appointive Offices

1.0501 Appointive Officers in Council Cities

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

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

The city assessor shall be appointed at the first meeting of the City Council in September of each odd numbered year. The City Council, by majority vote, may dispense with any appointive office and provide that the duties of that office be performed by others. (Source: North Dakota Century Code section 40-14-04)

1.0502 Term of Appointive Officers

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

1.0503 General Duties of City Auditor

It shall be the duty of the city auditor to issue the calls for all special meetings of the City Council when requested to do so by the mayor or any two (2) members of the City Council. (Source: North Dakota Century Code section 40-08-10) The city auditor shall also keep a full and complete record of all meetings of the City Council and shall keep a book titled as the "Ordinance Book" and shall record therein at length all ordinances of the City. The city auditor shall also keep a book titled as the "Special Assessment Book" in which to keep all records of special assessments. The city auditor shall report to the City Council at the end of every month a list of all warrants, interest coupons, bonds or other evidence of indebtedness which may have been redeemed or paid by him/her during the month and he/she shall duly give to the council a copy of his/her receipt therefore. The city auditor shall further handle all correspondence, permits and licenses and shall do and perform all other duties prescribed by statutes of this state, or by an ordinance, resolution or proper instruction of the City Council. (Source: North Dakota Century Code chapter 40-16)

1.0504 General Duties of City Attorney

The city attorney shall conduct all the law business of the City and of the departments thereof and shall, when requested, furnish written opinions upon the subjects submitted by the City Council or any other department. The city attorney shall also draft all ordinances, bonds, contracts, leases, conveyances

and such other instruments as may be required by the officers of the City, examine and inspect tax and assessment rolls and all other proceedings in reference to the levying and collection of taxes, and perform all other duties prescribed by statutes of the state, or by an ordinance, resolution or proper instruction of the City Council.

The city attorney shall conduct all the law business of the City and of the departments thereof and shall, when requested, furnish written opinions upon the subjects submitted by the City Council or any other department. The city attorney shall also draft all ordinances, bonds, contracts, leases, conveyances and such other instruments as may be required by the officers of the City, examine and inspect tax and assessment rolls and all other proceedings in reference to the levying and collection of taxes, and perform all other duties prescribed by statutes of the state, or by an ordinance, resolution or proper instruction of the City Council. In such case that each and every of the below listed requirements are met, the city attorney may institute a proceeding before a magistrate or submit any pleading to a magistrate on behalf of the City without prior approval of the Mayor and/or City Council: (1) the state's attorney for the appropriate county is unavailable, unable, or unwilling to take action, whether indefinitely or within a reasonable time, on behalf of the City; (2) the Chief of Police, upon personal knowledge or the knowledge of any employee of the Wishek Police Department, is of the opinion that the action is necessary to protect the health, wellness and/or public safety of any citizen of the City, domestic animal residing in the City, and/or the City as a whole; (3) the Chief of Police has made a request to the city attorney that the city attorney institute a proceeding or submit a pleading on behalf of the City; (4) the Wishek police department has exhausted all other reasonable options given the facts and nature of the matter; (5) the matter is under current investigation; (6) there is authority for such action under North Dakota Century Code; and (7) there is no remedy available under Wishek Ordinances which could otherwise be availed, whether indefinitely or within a reasonable time.

1.0505 General Duties of Other Appointive Officers

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

1.0506 Planning Committee

The Planning Committee, a citizen body, nominated by the Mayor and confirmed by the City Council, is hereby vested with authority and jurisdiction to administer the Zoning Ordinance, Subdivision Regulations, Building Code and Housing Code and to assist and make recommendations to the Board of Adjustment and to the City Council on any matter related to planning for and development of the city. (Source ND Century Code chapter 40-48)

The Planning Commission shall consist of no more than five (5) members, with one (1) member who shall reside within the extraterritorial planning area and to be appointed by the McIntosh County Board of Commissioners. Other members are nominated by the Mayor and appointed by the City Council. The member shall be appointed to terms of five years. The terms shall begin on January 1 of each year.

1. The Planning Commission shall be specifically responsible for interpretation and enforcement of this ordinance including the issuance of building permits.
2. Approve all zoning certificates and maintain records thereof.
3. Approve all building and repair permits
4. Approve all certificates of occupancy for all buildings including mobile homes and manufactured homes.
5. Inspect all buildings, structures and use of land to determine compliance with these and other applicable regulations of the city.
6. Notify, in writing, the property owner or user upon finding violation of this ordinance and cite the nature of violation clearly and require compliance within a reasonable time. If the notification is not replied to or steps are not taken to correct the violations within thirty (30) days, the Planning Commission shall make a report of the findings to the City Attorney and City Council.

7. Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.
8. To hear and act on all applications for amendments to zoning districts and make recommendations to the City Council for approval, denial or approval with modification.
9. To hear and act on all applications for conditional uses in the manner prescribed in this ordinance and make recommendations to the City Council for approval or denial.
10. To hear and act on all other matters referred to by the City Council
11. To study, examine and make recommendations to the City Council regarding comprehensive planning for the future development of Wishek.

The Planning Commission shall elect its own officers according to its bylaws and may establish rules and procedures for all cases before it.

ARTICLE 6 - Special Provisions Regarding City Officers

1.0601 Bonds of Municipal Officers and Employees

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

- Mayor
- City auditor
- Municipal judge
- City assessor
- City administrator

1.0602 Oaths of Municipal Officers

Every person appointed to any municipal office, before he enters upon the discharge of the duties thereof, shall take and subscribe the oath of office prescribed for civil officers and, except in the case of the auditor, shall file the same with the city auditor within 10 days after notice of his election or appointment has been given. The oath of the auditor shall be filed in the office of the county auditor. Refusal to take the oath of office shall also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to North Dakota Century Code section 44-02-01. (Source: North Dakota Century Code section 40-13-03)

1.0603 Salaries of Elected Officers Fixed by Ordinance or Resolution

The Mayor and Council Members of this City shall receive compensation as established by ordinance. (Source: North Dakota Century Code section 40-08-07 and 40-08-15) The compensation of the Mayor shall be \$200.00 per month. The compensation of Council Members shall be \$100.00 per month. The salary of the municipal judge shall be set by resolution of the city governing body. (Source: North Dakota Century Code section 40-18-06)

1.0604 Salaries of Appointive Officers and Employees

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

1.0605 Meals, Lodging, and Mileage - Amount Allowed

Each elective or appointive officer, employee, representative, or agent of this City, or of any of its subdivisions, boards or commissions may make claim and shall upon approval of such claim, be paid as an allowance for meals and lodging while engaged within this State, in the discharge of a public duty away from their normal working and living residence for all or any part of any quarter of a day at the rates specified by state law. Verifications of claims shall not be required for the first three quarters of each day

and only a lodging receipt shall be required for the fourth quarter. (Source: North Dakota Century Code section 44-08-04)

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

Mileage expenses shall be reimbursed at the rate provided for under state law for state officials and employees. (Source: North Dakota Century Code section 54-06-09) Any person filing a false claim with the City for mileage or expenses as herein permitted is guilty of an infraction.

1.0606 Personal Interest in Contract by Public Officer - Prohibited

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

1.0607 Retiring Officer to Turn Over Books

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

1.0608 Administrative Policy and Procedure

Each officer shall:

1. Perform all duties required of their office by law or ordinance and such other duties not in conflict as may be required by the governing body.
2. Be immediately responsible to the governing body for the effective administration of their departments and all activities assigned thereto.
3. Keep informed as to the latest practices in their particular field and shall inaugurate with approval of the governing body such new practices as appear to be of benefit to the service and to the public.
4. Submit such reports of activities of their departments as the governing board may request.
5. Be responsible for the proper maintenance of all City property and equipment used in their departments.
6. Establish and maintain records in sufficient detail to furnish all information needed for proper control of department activities and to form a basis for reports to the governing board.
7. Cooperate with other officers, departments and employees.
8. Have power to direct and supervise all department subordinates.
9. Be available during the hours designated by the City governing body.

1.0609 Obstructing a Public Official - Prohibited

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

ARTICLE 7 - Purchasing and Disposition of Property

1.0701 Competitive Bidding Requirements

All purchase of and contracts for supplies and contractual services with a cost in excess of one hundred thousand dollars shall be based on competitive bids. (Source: North Dakota Century Code section 48-01.2-04)

1.0702 Procedure

All supplies and contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed \$100,000.00 shall be purchased from the lowest responsible bidder after due notice inviting proposals. Due notice shall be given by advertising for the sale or purchase of the property or service by giving written notice in the official newspaper of the City for three (3) consecutive weeks and the opening of the bids so received not less than 21 days after the first publication thereof. The lowest responsible bidder shall be the lowest best bidder for the project considering past experience, financial condition, past work with the governing body, and other pertinent attributes identified in the advertisement for bids. (Source: North Dakota Century Code sections 48-01.2-01, 48-01.2-04)

1.0703 Open Market Purchases - Emergency

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

1.0704 Accounts Against City to be in Writing

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

1.0705 Further Verification May be Required

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

1.0706 Conveyance, Sale, Lease or Disposal of Property

Real property belonging to the municipality shall be conveyed, sold, leased or disposed of, only as approved of by a two-thirds vote of all members of the governing body. Personal property shall be conveyed by a majority vote of all members of the governing body. When the property to be disposed of, whether real property or personal property is estimated, by the governing body of the municipality to be of a value of less than \$2,500.00, such property may be sold at private sale upon the proper resolution of the governing body. In all other cases, such property may be sold only at public sale or as provided under

section 40-11-04.2 of the North Dakota Century Code (Source: North Dakota Century Code section 40-11-04). Bids for the purchase or lease of real property belonging to the municipality, whether or not advertisement therefore has been made, shall be made directly to the governing body and submitted to the city auditor, who shall present any and all such bids to the governing body at its next regularly scheduled meeting. When specific statutory provisions contained in the North Dakota Century Code provide for a procedure which is in conflict with this section, governing the conveyance, sale, lease or disposal of real property, this section shall not apply insofar as it is in conflict with such state law. Said statutory procedures include the following:

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

1.0707 Real Property Transfer Requirements

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

ARTICLE 8 - Municipal Elections

1.0801 Qualified Electors in Municipal Elections - Restrictions

The provisions of section 40-21-01 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Every resident of a municipality who is qualified to vote therein at general elections may vote at all municipal elections held therein.

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

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

1.0803 Designation of Polling Places for Municipal Elections

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

1.0804 Compensation of Inspectors, Judges and Clerks at Municipal Elections

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

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

The provisions of section 40-21-06 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. No reference shall be made to a party ballot or to the party affiliation of a candidate in a petition to be filed or on behalf of a candidate for nomination to a public office in any incorporated City in this state.

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

The provisions of section 40-21-07 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. A candidate for any public office in the City may be nominated by filing with the city auditor, at least sixty days and before four p.m. on the sixtieth day prior to the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last City election. Qualified electors who sign such a petition shall reside within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or within the corporate limits of the City if the officer is elected at large. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the sixtieth day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each qualified elector who signs a petition shall add to the petition the petitioner's mailing address.

1.0807 Ballots in Municipalities - Makeup

The provision of section 40-21-08 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. The auditor of the City shall place only the names of the persons nominated upon the ballot. The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The auditor shall determine the arrangement of the names of the candidates upon the ballot by conducting a drawing within five days following the last day for the filing of the nomination papers. The city auditor shall set the date, time and location for conducting the drawing and shall give advance notice of the drawing to the candidates involved.

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

The provisions of section 40-21-11 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. When necessary, the judges of election at a municipal election shall appoint clerks to fill vacancies. The judges and clerks of a municipal election shall take the same oath and have the same powers and authority as judges and clerks of general state elections.

1.0809 Municipal Elections to be Governed by Rules Applicable to County Elections - Absent Voting

The provisions of section 40-21-13 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. The manner of conducting, voting at, keeping poll lists and canvassing votes at municipal elections, recounts and contests of the results of such elections shall be governed, as nearly as possible and except as otherwise provided in this chapter, by the laws of this state applicable to elections and contests in the case of county officers. Absent voters' ballots must be available in municipal elections in accordance with the provisions of chapter 16.1-07 of the North Dakota Century Code as amended.

1.0810 City Auditor to Notify of Election or Appointments

The provisions of section 40-21-14 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. The city auditor, within five days after the result of an election is declared or the appointment of an officer is made within the municipality, shall notify each person elected or appointed to municipal office of his election or appointment. Within the same period of time, the city auditor shall also notify the state supreme court of the election or appointment of any municipal judge or alternate judge.

1.0811 New Election Upon Failure to Elect

The provisions of section 40-21-15 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. If there is a failure to elect an officer required to be elected, the governing body of the municipality may order a new election.

1.0812 Special Elections Conducted in Same Manner as General Elections

The provisions of Section 40-21-16 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. Special municipal election to fill vacancies or for any other purpose shall be held and conducted by the inspectors and judges of election of several precincts in the same manner and the returns shall be made in the same form and manner as at regular municipal elections.

1.0813 Highest Number of Votes Elects in Municipal Election - Procedure on Tie Vote

The provisions of Section 40-21-17 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. The person having the highest number of votes for any municipal office shall be declared elected to such office. In case of a tie vote in the election of any municipal officer, a recount must be conducted pursuant to Section 16.1-16-01 of the North Dakota Century Code. If a recount results in a tie vote, the choice shall be determined by a drawing of names in the presence of the governing body of the municipality and in a manner it directs. A candidate involved in a tie vote may withdraw from consideration by signing a written statement to that effect in the presence of the filing officer of the election.

ARTICLE 9 - Records Management Policy

1.0901 REMOVED

CHAPTER TWO

ORDINANCES

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CHAPTER TWO

ORDINANCES

ARTICLE 1 - Procedure

2.0101 Enacting Clause for Ordinances

The enacting clause for every ordinance adopted by the City of Wishek shall be “Be it ordained by the City Council (or Board of City Commissioners) of the City of Wishek”. 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 or 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 are hereby incorporated by reference in this ordinance. The executive officer of a municipality may appoint, by and with the advice and consent of the governing body of the municipality, one or more competent persons to prepare and submit to the governing body for its adoption or rejection, an ordinance for the revision or amendment of existing ordinances or for the enactment of new and additional ordinances for such municipality. The attorney for the municipality, if it has an attorney, shall be appointed as one of the persons to prepare and submit such ordinance. The compensation of the reviser or revisers, including that of the attorney, shall be determined by the governing body and shall be paid out of the municipal treasury. Such revision, including any additional ordinances and amendments to existing ordinances contained therein, may be passed as a single ordinance and may be published in pamphlet or book form, by and under the authority of the governing body of the municipality, and shall be valid and effective without publication in a newspaper or posting.

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

The provisions of section 40-11-10 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Any action brought to recover any fine, to enforce any penalty or to punish any violation of an ordinance of any municipality shall be brought in the corporate name of the municipality as plaintiff. A prosecution, recovery or acquittal for the violation of any such ordinance may not constitute a defense to any other prosecution of the same person for any other violation of any such ordinance, notwithstanding that the different claims for relief existed at the time of the previous prosecution and, if united, would not have exceeded the jurisdiction of the court.

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

The provisions of section 40-11-11 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. In all actions for the violation of an ordinance, the first process shall be a summons, but a warrant for the arrest of the offender shall be issued upon the sworn complaint of any person that an ordinance has been violated and that the person making the complaint has reasonable grounds to believe the person charged is guilty of such violation. Any person arrested under a warrant shall be taken without unnecessary delay before the proper officer to be tried for the alleged offense.

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

The provisions of section 40-11-12 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Any person upon whom any fine or costs, or both, has been imposed for violation of a municipal ordinance may, after hearing, be committed upon order of the court to jail or other place provided by the municipality for the incarceration of offenders 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 of the North Dakota Century Code.

2.0112 Costs of Prosecution

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

2.0113 Judgment of Conviction

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

2.0114 Refusal to Work

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

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

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

2.0116 Sentencing Alternatives

The provisions of section 40-18-13 of the North Dakota Century Code and all subsequent amendments are hereby incorporated by reference in this ordinance. Subject to section 40-05-06 of the North Dakota Century Code, the municipal judge may use the sentencing alternatives provided by section 12.1-32-02 of the North Dakota Century Code.

CHAPTER THREE

PUBLIC PLACES AND PROPERTY

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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 superintendent, who shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinances.

3.0102 Construction and Repair - Permits

It shall be unlawful to construct, reconstruct, alter, grade or repair any public street, sidewalk, driveway, curbs or gutters without having first secured a permit therefore, unless said work is performed by the City contractor. Applications for such permits shall be made to the city auditor and shall state the location of the intended pavement or repair, the extent thereof and the person or firm who is to do the actual construction work. No such permits shall be issued except where the work will conform to the ordinances of the City. Any violation of this section of Article 1 Sub Section 3.0102 will be fined not less than \$100.00.

3.0103 Bond

Repealed

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 to maintain such sidewalks, the city engineer or street superintendent shall direct the owner to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should the owner fail, within a reasonable time, to follow the directions of the city engineer or street superintendent, the city engineer or street superintendent shall report the facts to the governing body, which may then proceed as provided in chapter 40-29 of the North Dakota Century Code.

3.0106 Application for Permit

An applicant for a permit hereunder shall file with the 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 planning committee shall find reasonably necessary to the determination whether a permit should be issued hereunder.

3.0107 Standards for Issuance of Permit

The city planning committee 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 Sidewalks Built to Grade Specifications

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

1. All sidewalks shall be constructed of concrete.
2. All sidewalks in residential areas shall be constructed not less than four (4) feet in width and shall have a minimum slope one-fourth (1/4) inch per foot from the inside edge toward the street.
3. All sidewalks shall be of concrete and of at least four (4) inches in thickness.
4. All sidewalks shall be laid out as notwithstanding any other provision herein all sidewalks shall be set out so that they are in conformity with existing sidewalks to which they may attach.
5. All sidewalks in commercial and/or industrial districts shall be constructed from the property line to the back of the curb and the width of sidewalk shall be governed by the width of street section; provided however, in areas where commercial development is not complete the entire sidewalk need not be constructed, a section six (6) feet in width adjacent to the curb shall be constructed thus leaving an area for structural foundations.

3.0109 Materials and Manner of Construction

The kind and quality of material used, and the manner in which driveways, curb and gutter, relaying of block walks and paving repairs shall be constructed, 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 superintendent and shall conform to specifications filed with the city auditor by the city engineer or street superintendent 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 satisfactorily comply with the specifications for construction.

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 an amount of time not to exceed thirty (30) days or by both such fine and imprisonment.

3.0203 Encroachments

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

3.0204 Openings

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

3.0205 Wires

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without having first secured permissions from the City governing body. Any person or company which maintains poles and wires in the streets, alleys or other public places, shall, in the absence of provisions in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the city engineer or street superintendent, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

3.0206 Littering - Prohibited

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

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 within the City of Wishek.

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 16,000 pounds per axle and exceeds 750 pounds per inch of tire widths, or any vehicle to the wheels of which are attached spurs, bars, angle irons or cleats which will tend to mar or deface the paving, sidewalks, crosswalks, culverts, bridges or viaducts, except under the direction and permission of the City governing body. Violators shall pay or cause to be paid to the City, upon demand, any and all damages done to the paving, sidewalks, crosswalks, culverts, bridges or viaducts. When the specified load limits herein contained will cause damage to the City's paved streets, the City governing body, by resolution adopted, may lower said load limits for such period of time as it may deem necessary. The provisions of this section shall not apply to state and federal highways through the City.

3.0210 Removal of Snow and Ice from Sidewalk

It shall be, and hereby is declared to be, the duty of the owner or occupant of each lot within the business commercial district 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 seventy two (72) 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.

The City Council upon approval of the board may from time to time not enforce the 72 hour snow removal from the sidewalks.

No Resident or snow remover shall push snow onto the 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 and snow from the sidewalk in front of or along a lot therein, within the same time above stated or refuses to sprinkle ashes or sand on the same within the time specified for removal in such manner as to make such sidewalk safe for travel of pedestrians thereon, the same may be removed by or under the direction of the city engineer or street superintendent of the City, or ashes or sand sprinkled thereon, and the necessary expenses shall be charged against the abutting property by special assessment in the manner prescribed by law. (Source: North Dakota Century Code section 40-29-18)

3.0212 Assessments by Street Superintendent When Work is Done by City

Whenever the street superintendent shall, pursuant to Section 3.0211 of this article, remove or cause to be removed any snow or ice from any sidewalk or sidewalks along or in front of any building,

grounds or premises, the street superintendent shall assess the cost of the same against said property, and on or before the first day of May in each year, make and file in the office of the city auditor a list showing separately the amount chargeable and assessed against each lot and tract and stating the name of the owner of each lot or tract as know to the street superintendent. (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 date fixed for the hearing. At the June meeting of the City governing board or at such later meeting as the hearing and confirmation of such assessment may be adjourned to, the City governing board shall consider said assessment and shall hear any objections thereto or to any part thereof, and after revising and correcting the same, if necessary, it shall approve and confirm the list. The city auditor shall attach to such list the city auditor's certificate that the same is correct as confirmed by the City governing board and shall file the same in the city auditor's office. The assessment shall be certified to the county auditor by the city auditor in the manner provided in section 40-24-11 of the North Dakota Century Code. (Source: North Dakota Century Code section 40-29-19, 40-29-20)

3.0214 Street Cleaning - Snow Removal

Whenever, in the judgment of the governing body or the city engineer or street superintendent of the City, it shall be necessary that streets, alleys or public ways in the City shall be cleared of snow or ice or be cleaned by the use of street sweepers or other methods of cleaning such streets, or for marking for traffic purposes, the ordinances of the City regulating the parking of automobiles, trucks and other motor vehicles shall be suspended and it shall be unlawful for any automobile, truck or other motor vehicle to be parked or left standing between the hours hereinafter mentioned and during the period of time during which the said parking ordinances are suspended. No residents, private or for hire are allowed to block any alleys with snow that has been moved. It is also prohibited to deposit snow from one owner's property to another owner's property without permission from the owner of the property where the snow is being placed. Exception if City crew moves the snow unto the boulevard. Violation of this ordinance is punishable by a fine of not more than \$500.00 per each violation. Along with any fine will be the expense of having any snow moved that created the violation.

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 superintendent the area and streets to be cleared, cleaned or marked and the time during which such activity will be done by the posting of such information in the area affected or some other means of public notice..

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 automobile, truck, 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.

3.0219 Guarding of 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.

3.0226 Supervision of Excavation Work

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

3.0227 City Buildings, Equipment and Vehicles - Smoking

Smoking is not permitted in City buildings, equipment and vehicles, except as provided under state law. (Source: North Dakota Century Code sections 23-12-09 through 23-12-11)

3.0228 Camper Parking & Camp Sites

No overnight camping in Civic Center Parking Lot.

During the time frame of a city celebration camping on residential lots is permitted.

Permanent campsites on any lots are not allowed. Unless with the exception with state and City approved RV camping sites.

3.0229 Alcohol @ Gazebo and RV Park

Alcohol in the Gazebo is allowed only with a permit from the governing body of the City of Wishek.

Alcohol in the RV Park is allowed when staying overnight with a paid camping site.

3.0230 Television Masts, Towers & Antennas

- A. An underwriters laboratories approved lightning arrester or its equivalent is required on all antenna lead-ins unless the lead-in is of the metal shielded type, with the metal shield properly grounded.
- B. Lead-in conductors attached to a building shall be so installed that they cannot swing with 2 feet of conductors carrying 250 volts or less or within 10 feet of conductors carrying more than 250 volts. The clearance between lead-in conductors and any conductors forming part of a lightning rod system shall be not less than 6 feet. The part of the lead-in that comes in contact with the building shall be supported at intervals of not more than 15 feet apart.
- C. Conductive supporting poles, masts or other structures supporting antennas shall be permanently and effectively grounded with a minimum #10 copper or #8 aluminum

wire. Poles or masts which are themselves the pole antenna are, of course, exempt from this rule.

- D. No television mast, pole, tower or antenna shall be mounted or attached to a chimney.
- E. Poles or masts over 12 feet in height must be guyed with 3 or more wires to one position. Masts or poles 20 feet to 30 feet must be guyed to a minimum of 2 positions with the uppermost guy wires to be within 2 feet of the top of the pole or tower. The angle of the guys must not be less than 30 degrees from the vertical mast; wire used shall be of the standard rust proof type. Anchors shall be of equal strength or stronger than the combined wires connected to them. All guys fastened to the ground shall be protected by a sufficient safety guard to a minimum of 8 feet vertically from the ground.
- F. All self-supporting towers, poles or masts over 10 feet in height shall be designed and installed to withstand an actual wind velocity of 90mph.
- G. Metal supporting poles, masts, towers or other structures located on buildings provided with lighting protection must have an interconnection between the grounding conductors and the lighting surge conductors.
- H. Plumbing vent stacks shall not be used to ground antenna masts, poles or towers, instead all grounding conductors shall be attached preferably to a cold water pipe supplied by an underground water distributing system, with the water meter property jumpered. Where not available, grounding conductors shall be attached to a standard driven ground rod 6 feet or longer. No pole, mast, tower or structure used to support antennas shall be so located that in falling might fall across a utility distribution line over 250 volts, unless the mast, pole, tower or other structure has a double strength guy in such a position as to keep that pole, mast, tower or structure from falling across such utility line.
- I. All towers, masts, poles or antennas attached to a building shall be non-combustible and corrosive resistant.

Penalty

Any person, firm or corporation convicted of a violation of any of the provisions, shall, upon conviction thereof, be punished by a fine of not more than \$100.00 or by imprisonment for not more than 30 days, or both such fine and imprisonment.

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 three (3) 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 superintendent 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 city 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. (Source: North Dakota Century Code section 40-05-02, subsection 20)

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. The officer making the sale shall make a report thereof to the city governing body. The report shall contain the description of the property sold, the time and place of the sale, the name or names of the purchaser or purchasers and the amount received therefore. The report shall be made under oath and subscribed by the officer making such sale and shall be filed with the city auditor within three (3) days after the date of such sale. The officer upon filing the report shall pay to the city auditor the proceeds of said sale.

3.0305 Bill of Sale - Abandoned Property

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

3.0306 Proceeds of Sale - Abandoned Property

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

3.0307 Redemption of Personal Property

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

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. (See section 5.0203)

ARTICLE 4 - House Numbering

3.0401 House Numbering Required

All lots, buildings and structures in the City shall be numbered in accordance with the following 911 plan.

3.0402 Numbers of Houses

It shall be the duty of the owner and occupants of every house in the City to have placed thereon, in a place visible from the street, figures at least two and one-half (2 ½) inches high, showing the number of the house. Any violation of this ordinance will cause a penalty of no less than \$50.00.

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

There is hereby established a Shade Tree Committee for the City which consists of the active city council members.

3.0503 Operation and Duties of the Shade Tree Committee

The Shade Tree Committee shall 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.

The Tree Committee will formulate a special street tree species list for Wishek, ND. The list of allowable species shall be broken down into categories of small, medium, and large trees. No species other

than those included in this list may be planted as street trees without written permission of the Shade Tree Committee.

The spacing of Street Trees will be in accordance with the three species size classes listed in section 3.0504, and no trees may be planted closer together than the following: small trees, 20 feet, medium trees, 30 feet, and large trees, 40 feet.

The distance trees may be planted from curbs or curb lines and sidewalk will be in accordance with the three species size classes listed in section 3.0504, and no trees may be planted closer to any curb or sidewalk than the following; small trees, 2 feet; medium trees, 3 feet; large trees, 4 feet.

No street tree shall be planted closer than 20 feet (20') of any street corner, measured from the point of nearest intersection curbs or curb lines. No Street Tree shall be planted closer than 10 feet (10') of any fireplug.

No Street Tree other than those listed as small trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission lines or other utility.

3.0505 Review by City Governing Body

Repealed

ARTICLE 6 – Street Light Surcharge

3.0601 Surcharge for Street Lights

The purpose of this ordinance shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the street light system in the City of Wishek. The costs shall be distributed to all residents within the City limits of Wishek.

Surcharge rates shall be set by the City Council as deemed necessary. In the event the surcharge herein created is insufficient, the city council, by resolution, shall raise the surcharge to meet the costs. This surcharge shall be dedicated to the payment of light pole costs.

The City shall determine the total annual costs of operation and maintenances of the street light system. The total annual cost of operation and maintenance shall include, but need not be limited to, labor, repairs, equipment replacement, maintenance, necessary modifications, bracket rentals, pole rentals, and KWH charges.

Each user will be notified on their regular monthly city utility billing of the rate and that portion of the user charges which are attributable to the operation and maintenances of the street light system.

ARTICLE 7 – Cemetery

3.0701 Cemetery

REGULATING THE BURIAL OF REMAINS AND REGULATING TREES, SHRUBS, PLANTS, FLOWERS, FENCES AND BORDERS IN THE CITY OF WISHEK CEMETERY

Burial of Remains. All remains for burial in the City of Wishek Cemetery, including cremations, shall be interred in a cement vault.

Trees, Shrubs, Plants and Flowers. Trees, shrubs, plants and flowers planted on cemetery plots or adjacent to memorial headstones within the City of Wishek Cemetery is declared to be a nuisance and not in keeping the needs for maintenance and upkeep of the cemetery.

Planting or Placing of Trees, Shrubs, Plants, Flowers, Fences or Borders Prohibited. No person shall plant or place on any cemetery plot or adjacent to any memorial marker within the City of Wishek Cemetery any trees, shrubs, plants, flowers, fences or borders. Any planted trees, shrubs, plants, flowers or putting up fences or borders on cemetery plots within the City of Wishek Cemetery are subject to removal by the City of Wishek.

Exceptions. Memorial displays placed in receptacles contained within or on a memorial headstone are exempt from this ordinance. Temporary memorials, which would include but not be limited to non-planted trees, shrubs, plants or flowers, may be displayed on a cemetery plot only between one (1) week before and three (3) weeks after Memorial Day. Memorial displays not removed within the time period are subject to removal and disposal by the City of Wishek

CHAPTER FOUR

FIRE PROTECTION AND PREVENTION

ARTICLE 1 - Organization and Regulation of the Fire Department

- 4.0101 Establishment of Fire Department
- 4.0102 Supervision by Fire Chief
- 4.0103 Volunteer Fire Department
- 4.0104 Officers of Fire Department
- 4.0105 Chief of Fire Department – Powers, Salary
- 4.0106 Duties of Fire Chief
- 4.0107 Fire Chief to Report New Equipment Needed
- 4.0108 Police Powers of Fire Department
- 4.0109 Unlawful to Hinder Fire Department
- 4.0110 Right of Way - Fire Department Vehicles
- 4.0111 Driving Over Fire Hoses
- 4.0112 False Alarms of Fire
- 4.0113 Taking Fire Equipment
- 4.0114 Entering Fire Department
- 4.0115 Fire Department Service Outside Corporate Limits

ARTICLE 2 - Fire Limits

- 4.0201 REMOVED
- 4.0202 REMOVED
- 4.0203 REMOVED
- 4.0204 REMOVED
- 4.0205 REMOVED

ARTICLE 3- Fires in Public Places

- 4.0301 Smoking - Setting Fires
- 4.0302 Notice - Smoking Ordinance
- 4.0303 Bonfires Prohibited - Exception
- 4.0304 Hot Ashes and Other Dangerous Materials - Depositing of
- 4.0305 Open Burning Prohibited

ARTICLE 4 - Fire Prevention

- 4.0401 Adoption of Fire Code-Duty of Fire District
- 4.0402 Storage of Flammable Liquids
- 4.0403 Storage of Liquefied Petroleum
- 4.0404 Modifications of Fire Code
- 4.0405 Appeals from Decisions of Fire Chief
- 4.0406 REMOVED
- 4.0407 REMOVED

ARTICLE 5 - Firearms, Fireworks and Explosives

- 4.0501 Firearms not to be Furnished to Minors
- 4.0502 Exploding Firearms
- 4.0503 Blank Cartridges, Pistols, Etc. - Manufacture, Use and Sale of
- 4.0504 Fireworks Defined
- 4.0505 Fireworks - Discharging of, Sale of
- 4.0506 Exceptions to Fireworks Restrictions

ARTICLE 6 - Adoption of Electrical Code

4.0601 Electrical Code Adopted

ARTICLE 7 - Penalty for Violation of this Chapter

4.0701 Penalty - Violations of Fire Protection and Prevention Chapter

**CHAPTER FOUR
FIRE PROTECTION AND PREVENTION**

ARTICLE 1 - Organization and Regulation of the Fire Department

The Fire Department in the City of Wishek is a Fire District that operates independently from the City of Wishek.

4.0101 Establishment of Fire Department-

ARTICLE 2 - 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, illegal drugs 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 Bonfires Prohibited - Exception

No person shall kindle, maintain or assist in maintaining any bonfire or other exposed fire within the City except, fire pits are allowed with a cover, as long as the fire danger index is not at high.

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 garbage or other refuse either openly or in containers if such burning is prohibited by state law or proclamation within the City limits.

ARTICLE 4 - Fire Prevention

4.0401 Adoption of Fire Codes-Duty of Fire District

4.0402 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 which would be Commercial or Industrial. No compressed or liquefied petroleum gas storage shall exceed 1,000 gallons water capacity in the residential district within the City of Wishek.

4.0403 Storage of Liquefied Petroleum

The limits or area for storage if liquefied petroleum shall comply with the limits established in Section 4.0402.

The limits or area for storage of liquefied petroleum shall comply with the limits established in Section 4.0402.

4.0404 Modifications of Fire Code

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

4.0405 Appeals from Decisions of Fire Chief

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

ARTICLE 5 - 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, day go 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” does 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

The 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 at any time whatsoever, except during the period of June 27- July 5th and December 26- January 1st.

The sale of Fireworks cannot be sold within the city limits of Wishek.

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 - Adoption of Electrical Code

4.0601 Electrical Code Adopted

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

ARTICLE 7 - Penalty for Violation of this Chapter

4.0701 Penalty - 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 FIVE
POLICE DEPARTMENT

ARTICLE 1 - Organization and Regulations

- 5.0101 Establishment
- 5.0102 Additional Officers - Emergency
- 5.0103 Duties of Chief
- 5.0104 Rules and Regulations
- 5.0105 Duties of Police - General
- 5.0106 Duties of Police - Hot Pursuit - Defined
- 5.0107 Duties of Police - Service of Process, Etc.

ARTICLE 2 - Powers and Duties

- 5.0201 Money or Property of Arrested Persons
- 5.0202 Arrested Persons
- 5.0203 Stolen, Abandoned, Lost Property
- 5.0204 Traffic Administration
- 5.0205 Witness Fees and Mileage of Municipal Police Officers

ARTICLE 3 - Miscellaneous

- 5.0301 False Alarms - Interference
- 5.0302 Right of Way

CHAPTER FIVE

POLICE DEPARTMENT

ARTICLE 1 - Organization and Regulations

5.0101 Establishment

The police department heretofore created for the City and by this chapter continued shall consist of the chief of police appointed by the Mayor and as many police officers as may be authorized by the governing body.

5.0102 Additional Officers - Emergency

In case of riot or unusual or general disturbances of the peace, the chief of police shall have the power to appoint such other and additional police officers as deemed necessary for the preservation of the public peace.

5.0103 Duties of Chief

The chief of police shall be the keeper of any city jail and shall have custody of all persons incarcerated therein, providing a jailer at all times when there is somebody incarcerated therein. The chief of police shall keep such records and make such reports concerning the activities of the department as may be required by statute or by the governing body. The chief shall be responsible for the performance by the police department of its functions and all persons who are members of the police department shall serve subject to the orders of the chief of police. The chief of police shall have the authority to administer oaths to police officers under the chief's supervision.

5.0104 Rules and Regulations

The chief of the police department may make or prescribe rules and regulations for the department. Such rules, when approved by the governing body, shall be binding on members of the department. Such rules and regulations may cover, besides the conduct of the members, uniforms and equipment to be worn or carried, hours of service and all other similar matters necessary or desirable for the better efficiency of the department.

5.0105 Duties of Police - General

It shall be the duty of the police department, and each and every member of the police force, to notice and diligently inquire into and report to the chief of police all violations of the city ordinances or the criminal laws of the state, to make complaint against the person or persons guilty thereof and to attend punctually all trials of offenses in regard to those complaints.

Within the City limits and for a distance of one and one-half (1 ½) miles in all directions outside the City limits, police officers shall perform the duties and exercise the powers of peace officers as defined and prescribed by the laws of the State of North Dakota. (Source: North Dakota Century Code section 40-20-05)

5.0106 Duties of Police - Hot Pursuit - Defined

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

5.0107 Duties of Police - Service of Process, Etc.

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

ARTICLE 2 - Powers and Duties

5.0201 Money or Property of Arrested Persons

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

5.0202 Arrested Persons

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

5.0203 Stolen, Abandoned, Lost Property

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

5.0204 Traffic Administration

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

5.0205 Witness Fees and Mileage of Municipal Police Officers

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

ARTICLE 3 - Miscellaneous

5.0301 False Alarms - Interference

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

5.0302 Right of Way

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

City of Wishek Ordinances

Chapter 6

ZONING ORDINANCE

See attached Chapters

CHAPTER SEVEN
WATER AND SEWER

ARTICLE 1 - Utility Established

- 7.0101 Water and Sewer Department Established
- 7.0102 City Water and Sewer Department to be Independent Agency
- 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
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CHAPTER SEVEN
WATER AND SEWER

ARTICLE 1 - Utility Established

7.0101 Water and Sewer Department Established

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

7.0102 City Water and Sewer Department to be Independent Agency

All of the business affairs of the City Water and Sewer Department shall be conducted, insofar as is possible within the ordinances of the City, as a completely separate and distinct division of the City. Separate and distinct accounts shall be set up on the books of the city auditor. These accounts shall at all times reflect the true condition of the Water and Sewer Department, as distinct from the remaining business of the City and shall be so devised as to disclose the annual profit or loss of the department. The funds of the department shall be held in the custody of the city auditor and disbursed upon warrant in the same manner as other funds, but the Water and Sewer Department shall be given credit upon the books of the City for any and all funds paid by it into the City treasury and shall be charged on the books of the City with all payments made by the City on its behalf. Transfers from the Water and Sewer Department to the General Fund or any other fund of the City shall not be made except upon order of the governing body nor shall transfer be made from City funds to the Water and Sewer Department without like order. (Source: North Dakota Century Code section 40-33-12)

Where bonds have now been, or may hereafter be issued against any water works improvement or sewage improvement, which constitute a general obligation of the City, the taxes levied for the payment of such bonds and interest shall be levied and expended for such purpose in the manner provided by law, until such time as it may be possible out of the proceeds of the Water and Sewer Department, after setting up a reasonable reserve for depreciation and new construction, to make payment of the bond requirements from the profits of the Water and Sewer Department. It is expressly declared to be the purpose of this ordinance that as soon as the same can be accomplished without undue burden to the water users of this City, the Water and Sewer Department shall be placed upon an entirely independent basis as a separate business enterprise.

7.0103 Scope of Utility

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

7.0104 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 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.

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. The superintendent shall have power and authority to employ, subject to the approval of the governing body, all such engineers, filter plant operators, meter readers, laborers and other employees, as may be necessary to the operation of the utility system. All such employees shall be subject to the orders and directions of the superintendent, and the superintendent shall be responsible for their acts. The superintendent 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. The superintendent shall keep such books and records of matters pertaining to the operation of the system as are necessary to show the operation and condition thereof. The superintendent shall at all times be subject to the supervision and direction of the governing board and shall perform such other duties and have such other powers and authority as are hereinafter provided.

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, shall apply for a connection on a form provided by the City. Such application shall state an exact description of the premises to be served, and the uses, both general and special, to which the water is to be put, the nature of sewage to be discharged, and the estimated amount of water to be used for a quarter-annual period. Such application shall be filed with the city auditor, and the applicant shall thereupon pay to the city auditor, as a connection charge, the sum of \$160.00 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 one year 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 shall make written application therefore as in cases described in Section 7.0204, and if the connection charge for such premises has not been fully paid at such time, the applicant shall pay or agree to pay the remainder thereof in like manner and time as described in Sections 7.0204 and 7.0205.

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 Section 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 sections 40-33-13 and 40-33-14)

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 office of the County Recorder.

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, of 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 the owner's premises.

7.0211 Water Meters

No water shall be furnished to any consumer or otherwise, except that the same shall be measured by or through a water meter of the description and kind designated by the City Council.

The City shall charge the consumer a monthly rent therefore. The rent shall be such reasonable rate as may be set by the City Council from time to time by resolution.

Every consumer of water shall provide a suitable place where a water meter can be installed and the City shall install and maintain the same. If at any time the consumer desires to have a meter tested for accuracy, the same shall be done by the City. A fee set by resolution shall be charged to the consumer if the meter registers 98% more accurate. If the meter registers less than 98% accurate, it shall be replaced.

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 or Turning on Water - Charge for. The water department shall charge a dollar amount set by resolution by the Council on each for shutting off or turning on services. If deposit was used to clear up utility account, the resident must pay the utility charge deposit again before service is re-connected.
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 or fire department 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. Delinquent Accounts are 2 months without a full payment. City has the right to authorize a finance charge after 30 days past due.

7.0216 Connection to be Supervised by City Employees

In installing water and sewer service, all taps shall be driven, street excavations made, corporation cocks inserted, pipes installed from the main and the curb cock installed in an iron case to which the service 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 seven 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 to the city auditor and approval by the City governing body.

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 3.0218 through 3.0226 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 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 are as follows:

1. "BOD" (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.
2. "Building Drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building Sewer" means the extension from the building drain to the public sewer or other place of disposal, also called house connection.
4. "Combined Sewer" means a sewer intended to receive both wastewater and storm or surface water.
5. "Easement" means 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" means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
8. "Industrial Wastes" means the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
9. "Natural Outlet" means any outlet, including storm sewers and combined sewer overflows, into a watercourse pond, ditch, lake or other body of surface or groundwater.
10. "May" is permissive (see "shall," Sec. 18).
11. "Person" means any individual, firm, company, association, society, corporation or group.
12. "PH" means the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has pH value of 7 and a hydrogen-ion concentration of 10^{-7} .
13. "Properly Shredded Garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than $\frac{1}{2}$ inch (1.27 centimeters) in any dimension.
14. "Public Sewer" means a common sewer controlled by a governmental agency or public utility.
15. "Sanitary Sewer" means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.
16. "Sewage" is the spent water of a community. The preferred term is "wastewater," Sec. 24.
17. "Sewer" means a pipe or conduit that carries wastewater or drainage water.
18. "Shall" is mandatory (see "may," Sec. 10).

19. "Slug" means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
20. "Storm Drain" (sometimes termed "storm sewer") means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.
21. "Superintendent" means 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" means total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as non-filterable residue.
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" means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.
25. "Wastewater Facilities" means 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" means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. It is sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."
27. "Watercourse" means a natural or artificial channel for the passage of water either continuously or intermittently.
28. "Hearing Board" means that board appointed according to the provisions of Section 7.0209.

7.0303 Use of Public Sewers Required

1. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City 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 one day after date of official notice to do so, provided that said public sewer is within 200 feet (61 meters) of the property line according to the North Dakota plumbing code.

7.0304 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 of \$20.00 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 ten days in compliance with this ordinance, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
6. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. All sludge or solids, to be disposed of from a septic tank, cesspool or other individual method of disposal shall be disposed of by a licensed septic tank pumper in accordance with Section 23-19-01 of the North Dakota Century Code.
7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the local health officer.

7.0305 Building Sewers and Connections

1. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.
2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent, shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee of \$0.00 for a residential or commercial building sewer permit and \$0.00 for an industrial building sewer permit shall be paid to the City at the time the application is filed.
3. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
4. 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 fleshing's, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.
4. The following described substances, materials, waters or waste shall be limited in discharges to city systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, and public property or constitute a nuisance. The superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the superintendent are as follows:
 - a. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).

- b. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin.
 - c. Wastewater from industrial plants containing floatable oils, fat or grease.
 - d. Any garbage that has not been properly shredded (see Section 7.0302 (13)). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
 - e. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the superintendent for such materials.
 - f. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent.
 - g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
 - h. Quantities of flow, concentrations or both which constitute a "slug" as defined herein.
 - 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 Section 7.0306(4), and which in the judgment of the superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:
- a. Reject the wastes;
 - b. Require pretreatment to an acceptable condition for discharge to the public sewers;
 - c. Require control over the quantities and rates of discharge; and/or
 - d. Require payment to cover the added costs of handling and treating the wastes not covered by other sewer charges.

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), 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, may be selected as needed for arbitration of differences between the superintendent and sewer users on matters concerning interpretation and execution of the provisions of this ordinance by the superintendent.
2. If a hearing board is used, one member of the board shall be selected to represent the City, one member shall be selected to represent the sewer users 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 continues any violation beyond the time limit provided for in Section 7.0310(1), upon conviction thereof, shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) for each violation. Each day in which any such violation continues shall be deemed a separate offense.
3. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

7.0311 Validity

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

ARTICLE 4 - Sewer Surcharge

7.0401 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 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 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 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 shall 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 Removed

7.0406 Surcharge Rate Schedule for Above Normal Strength Wastes Removed

7.0407 Determining Each User's Wastewater Service Charge

Each non-residential user's wastewater cost contributions as determined in Sections 7.0405 and 7.0406 shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user 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, suspended solids and 5-day 20-degree Centigrade biochemical oxygen demand. Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule.

7.0408 Payment of the User's Wastewater Service Charge

The City may submit an annual statement to the user for the user's annual wastewater service charge or one-twelfth of the user's annual wastewater service charge may be included with the monthly water and/or wastewater utility billing. Should any user fail to pay the user wastewater service charge within two months of the due date, the City may stop the wastewater service to the property.

7.0409 Review of Each User's Wastewater Service Charge

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

7.0410 Wastes Prohibited from Being Discharged to the Wastewater System

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

ARTICLE 5 - Adoption of State Plumbing Code

7.0501 Adoption

To promote 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 the superintendent's judgment is so installed or is in such condition as to be unsanitary, or to constitute a public nuisance or menace to health. In case of such repair, alteration or removal, if the plumbing code is not observed and connections not properly executed by the owner or owners thereof, in accordance with the superintendent's directions, the superintendent may cause the same to be discontinued from any source of water supply. It shall thereafter be unlawful for any person in any manner to use any such installation, or to supply water thereto, until the same shall have been put in a safe and sanitary condition according to the superintendent's 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 more than five hundred dollars (\$500.00) for each violation.

RESOLUTION ESTABLISHING WATER AND SEWER SERVICE CHARGES

Residential Rates

Water	\$10.80
Sewer	\$6.60
Garbage	\$16.00
Meter Charge	\$2.20
Street Light	\$4.40

Business

Water	\$10.80
Sewer	\$6.60
Garbage	\$16.00 base charge plus amount of pickup and generation charges apply
Meter Charge	\$2.20 for ¾ inch line * \$4.40 for a 2 inch line * \$6.60 for a 3 inch line
Street Light	\$4.40

Sprinklers \$15.00

Deposit \$160.00

Water on /off \$20.00

Water usage 2,666 gallons allowed per month \$1.00 per 1,000 overage.

Finance Charge is \$.50 a month for late accounts.

Due date for bills are the 1st of the following month.

Last updated October 1st, 2016

APPENDIX A

SURCHARGE RATE SCHEDULE FOR ABOVE-NORMAL STRENGTH WASTES

Removed

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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 is not authorized to grant any particular application for license or permit, the city auditor shall report such application to the next meeting of the City governing board for their action thereon.

8.0104 Licenses - Term

1. No license or permit shall be granted for a longer period than one (1) year.
2. All yearly licenses or permits shall commence on the first day of January in each year and expire on the last day of December in each year. All semi-annual licenses or permits shall commence on the first day of January and expire on the last day of June or commence on the first day of July and expire on the last day of December.
3. No license or permit shall be valid until signed and sealed nor shall any person be deemed licensed until a license shall be duly issued to that person.
4. Each license shall be dated the day of issuance thereof; but if the applicant or applicants shall have been acting without a license, the license shall commence with the date business commenced. If the business calls for a yearly license, then a license shall commence on the first day of January in the year for which the license shall be issued.
5. The date of issuance of the license, together with the time of commencing and expiration shall be given in the license and the license record.

8.0105 Licenses - Not Transferable

No license or permit shall be assignable or transferable except by permission of the City governing body. No person other than the person to whom the license is granted shall be authorized to do business or act under such license or at any other than the place specified therein. The City may grant the continuance of the business licensed to any other portion of the City, such permission to be certified on the license by the city auditor. No license shall authorize any person to act under it at more than one (1) place at the same

time, or at any other place than is therein specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without a license and shall be subject to the same penalty as prescribed for acting without a license.

8.0106 Licenses - Revocation

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

Where not otherwise provided, any license may be revoked by the City governing body at any time for cause. "Cause" includes, but is not limited to, the following:

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 officers, shall have authority to enter the licensed premises with or without a search warrant to check for violations of ordinances or state laws by the licensee.

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" does not include any livestock or agricultural product. (Source: North Dakota Century Code section 51-04-01)

8.0202 License Required

It shall be unlawful to do business in the City as a transient merchant without having first secured a license therefore as is herein provided. For the purpose of this article, any merchant engaging or intending to engage in business as a merchant in the City for a period of time not exceeding 100 days shall be considered as a transient merchant.

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 the application is filed. (see North Dakota Century Code section 51-04-02)

8.0205 Bond

Before any license shall be issued to a transient merchant for engaging in business in this City, the applicant therefore shall file with the city auditor a bond running to the City in the sum of \$1,000 executed by the applicant, as principal, and a responsible surety upon which service of process may be made in the State of North Dakota; said bond not to be revocable nor to terminate prior to passage of two years time after the expiration of the license issued pursuant thereto nor until due notice that the terms of the bond are to be cancelled has been given to the city auditor. The bond is to be approved by the city attorney, conditioned that the applicant shall comply fully with all of the provisions of the ordinances of the City and the statutes of the State of North Dakota, regulating and concerning the sale of goods, wares and merchandise. The bond must be conditioned to pay all judgments rendered against the applicant for any violation of city ordinances or state statutes, together with all judgments and costs that may be recovered against the applicant by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting business with the applicant, whether misrepresentations or deceptions were made or practiced by the owners or by their servants, agents or employees, of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the City to the use of the aggrieved person.

8.0206 Service of Process

Before any license as herein provided shall be issued for engaging in business as a transient merchant, as herein defined, in this City, such applicant shall file with the city auditor an instrument nominating and appointing the city auditor as a true and lawful agent with full power and authority to acknowledge service or notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transacted under the license and the bond given as required by this article, or for the performance of the conditions of said bond or for any breach thereof. This instrument shall also contain recitals to the effect that the applicant for license consents and agrees that service of any notice or process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for the license under this article, according to the law of this state or any other state, and waiving all claim or right of error by reason of such acknowledgement of service or manner of service. Immediately upon service of process upon the city auditor, as herein provided, the city auditor shall send to the licensee by registered mail, at the licensee's last known address, a copy of said process.

8.0207 Exhibiting License

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

8.0208 Transfer

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

8.0209 Enforcement by Police

It shall be the duty of the police officers of the City to examine all places of business and persons in their respective territories subject to the provisions of this article, to determine if this article has been complied with and to enforce the provisions of this article. 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, to assist and promote such enforcement.

8.0210 Revocation

1. Any license issued pursuant to this article may be revoked by the City governing body after notice and hearing for any of the following causes:

- a. Any fraud, misrepresentation or false statement contained in the application for license;
- b. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;
- c. Any violation of this article;
- d. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; 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.

8.0212 Exemption.

Any Transient Merchant which meets the below requirements is explicitly exempt from any and all regulations, licensing requirements and licensing fees contained in this Article if the Transient Merchant:

1. (1) is utilizing a residential house or accessory building(s) to a residential house as a locality for sale; and (2) is not soliciting any person except those people physically located on the real property to which any such house or accessory building is attached; or

2. (1) is present in the City upon invitation of any school, non-profit organization, religious organization, non-profit corporation, public board, club, or charity that has a City mailing address or a branch, division, parish, troop or chapter thereof that has a City mailing address, and has had a City mailing address for at least thirty (30) days; and (2) possesses proof of the aforementioned invitation in the form of a letter issued by the non-profit organization stating the same;

ARTICLE 3 - Solicitation Without Invitation

8.0301 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.

8.0302 Exemption.

This Article does not apply to any solicitor, peddler, hawker, itinerant merchant, transient vendor of merchandise, magazine and periodical subscription, or any other good as defined by North Dakota Century Code § 41-02-05 except for livestock and agricultural product (hereinafter, collectively, “Peddler”) which goes upon private residences or private property in the City if:

1. (1) the Peddler is acting on behalf and/or for the benefit of any of school, non-profit organization, religious organization, non-profit corporation, public board, club, or charity with a City mailing address or an official branch, division, parish, troop, or chapter thereof with a City mailing address (hereinafter, collectively, “Organization”); and (2) any and all proceeds earned as a result of the Peddler's actions are the solely owned by the Organization.
2. The Peddler is a resident of the City and has been a resident for at least sixty (60) days.

8.0303 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 4 - Alcoholic Beverages

8.0401 Definitions

For the purpose of this article:

1. “Alcoholic beverages” means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
2. “Beer” means any malt beverage containing more than one-half of one percent of alcohol by volume.

3. "Licensee" means any person, firm, corporation, association or club which shall have secured a license pursuant to provisions of this chapter or their agent or employee.

4. "Liquor" means any alcoholic beverage except beer.

5. "Person" means and includes any individual, firm, corporation, association, club, co-partnership, society or any other organization; and shall include the singular and the plural.

6. "Sale" and "sell" mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of and keeping for sale of such alcoholic beverages.

7. "Package" and "original package" mean and include any container or receptacle containing an alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.

8. "Club" or "lodge" includes any corporation or association organized for civic, fraternal, social or business purposes or the promotion of sports, which has at least 200 members at the time of application for license.

9. "Retail sale" means the sale of alcoholic beverages for use or consumption and not for resale.

10. "Off-sale" means the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.

11. "On-sale" means the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.

(see North Dakota Century Code section 5-01-01)

8.0402 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.

8.0403 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.

8.0404 Licenses Number to be granted

The number of licenses which shall be granted by the City of Wishek shall be limited to the following number in each class.

- a. The number of "on and off sale" beer & wine licenses which shall be granted shall be limited to 4.
- b. The number of "off sale" beer & wine licenses which shall be granted shall be limited to 2.
- c. The number of "on sale" beer & wine licenses which shall be granted shall be limited to 2.
- d. The number of "on and off sale" liquor licenses which shall be granted shall be limited to 4.
- e. The number of "off sale" liquor licenses which shall be granted shall be limited to 2.
- f. The number of "on sale" liquor license which shall be granted shall be limited to 2.

8.0404 Licenses - Classes of - Fees (Source: North Dakota Century Code section 5-02-03)

The fee for an "on and off" sale liquor license is \$1,150.00 per year.

The fee for an "on and off" sale beer & wine license is \$350.00 per year.

The fee for an "on" sale liquor license is \$400.00 per year.

The fee for an "on" sale beer & wine license is \$100.00 per year.

The fee for an "off" sale liquor license is \$1000.00 per year.

The fee for an "off" sale beer & wine license is \$250.00 per year.

The fee for a license issued on an annual basis for an annual license.

The City can change classes of fees by resolution.

8.0405 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 31st day of December in each year. Where a license is granted for a period less than one (1) year, any subsequent renewal thereof must be made for the full annual term.

2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees for said license shall be proportional to represent the number of days which said license will be in effect.

8.0406 License - Qualifications for (Source: North Dakota Century Code section 5-02-02)

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

3. If applicant is a partnership, the manager of the licensed premises and all of the members must be legal residents of the United States and of good moral character. Partnership applicant must first be properly registered with the North Dakota Secretary of State.

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

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 business at the licensed location is to be conducted by a manager or agent, the manager or agent must possess the same qualifications required of the licensee.

8.0407 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 City governing body, 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.

8.0408 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.

8.0409 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 City governing body. The application for approval shall be in writing and shall be filed with the City governing body. At the time of hearing, the City governing body shall in its discretion determine if said location is in harmony with the public interest and welfare of the community and shall consider among other things the following factors:

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.

8.0410 License - Granting

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

request that the applicant supply more verified information to the City governing body or they may reject the application.

8.0411 License - Limit to One Location

Each license shall be valid only for the specific premises licensed.

8.0412 License - Posting of

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

8.0413 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.

8.0414 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.

8.0415 Hours and Time of Sale - Penalty

Anyone who dispenses or permits the consumption of alcoholic beverages on a licensed premises after one a.m. on Sundays, before eight a.m. on Mondays or between the hours of one a.m. and eight a.m. on all other days of the week or who dispenses or permits such consumption on Christmas Day, after six p.m. on Christmas Eve, or provides off sale service after one a.m. on Thanksgiving Day is guilty of an offense which is punishable by a fine of up to five hundred dollars (\$500.00) and possible suspension or revocation of license. (Source: North Dakota Century Code sections 5-02-03 5-02-05, and 5-02-05.1)

8.0416 Licensee's Responsibility

Every licensee is hereby made responsible for the conduct of the licensee's place of business and is required to maintain order and sobriety in such place of business, permitting no disorderly conduct on the premises. Alcoholic beverages shall not be served to any intoxicated person.

8.0417 Gambling Prohibited – Exceptions & Rules for Gaming

No licensee hereunder shall be permitted to have or maintain on the licensed premises any gambling device, slot machine, punch board or any other machine or device of similar nature, nor shall gambling whether by cards, dice or otherwise, of any nature, be permitted upon the licensed premises. Any violation of this section shall be sufficient cause for the revocation of the license issued hereunder. This section shall not apply to gambling or games of chance conducted by a licensee under the authority of a valid and subsisting permit issued by the City governing body or license issued by the State of North Dakota.

Applications for a site authorization must be an eligible organization to conduct games of chance in ND as defined under Article 99-01.0 of the ND Administrative Code, and under Section 53-06.1-01 (18) of the ND Century Code.

Before a civic and service club or other public spirited organization is recognized as such by the City, it shall provide to the City Council the documents outlined in section 99-01.3-01-03(1) of the ND Administrative Code.

Applicants for a site authorization shall be an organization that has its principal executive office in ND or be a foreign corporation authorized to conduct a raffle within the State of North Dakota. The organization shall disclose on the application its intended use of the net income from the gaming activity.

The period for a site authorization shall be from July 1 to June 30 each year.

The fee for an annual site authorization shall be \$100 for the full year or fraction Thereof.

The number of site authorizations that shall be granted shall be limited to 6.

The Games of Change permits shall be \$10.00 for the year.

8.0418 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.

8.0419 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.

8.0420 Minors in Licensed Premises

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

8.0421 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.

8.0422 Street Sales Prohibited

The sale or consumption of alcoholic beverages upon or across any street, alley or public way is prohibited. With the exception of off premises special events approved by the City Council.

8.0423 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.

8.0424 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.

8.0425 Purchase from Licensed Wholesaler

No licensee hereunder shall purchase, have or possess any alcoholic beverages other than those purchased from a wholesaler duly licensed by the State of North Dakota pursuant to the provisions of Title 5 of the North Dakota Century Code. Each licensee hereunder shall keep on file all invoices covering purchases of such alcoholic beverages showing the name and license number of the wholesaler. Such records shall be retained in the possession of the licensee and shall be at all times open to inspection by any police officer or peace officer of the State of North Dakota.

8.0426 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.

8.0427 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.

8.0428 Termination or Revocation of Licenses

1. Licenses issued pursuant to this article shall be deemed cancelled and terminated upon the happening of any one or more of the following contingencies:

a. The death of the licensee unless upon application to the City governing body by personal representative of the decedent, the City governing body consents to the carrying on of the business by the personal representative.

b. When the licensee ceases business at the location licensed, unless a new location has been approved.

c. When the licensee is adjudged bankrupt.

d. When the licensee has been convicted of 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 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 is a partnership, or one of the officers or the manager if the licensee is a corporation, be convicted in the municipal court of the City of drunkenness or disorderly conduct, or if any appeal is taken from such conviction then when such conviction be sustained by the higher court or courts.

3. Such causes as are hereinbefore detailed shall not be deemed to be exclusive and a license may also be cancelled and revoked or suspended at any time by the City governing body for any cause deemed by the City governing body to be sufficient cause and justified by reason of public health or public morals. Such termination shall be subject only to review by the courts of the State of North Dakota.

4. When any license is terminated or revoked for cause, or the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through the licensee.

8.0429 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). In addition, all powers, right and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with Section 8.0428.

ARTICLE 5 - Shows, Carnivals and Circuses

8.0501 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, tent show, carnival or carnival show, continuous theatrical performance, or other like exhibition without first obtaining a license from the City.

8.0502 Fees for

The fees to secure license to conduct the exhibitions under Section 8.0501 shall be as follows:

Any show, carnival or circus - per day: \$50.00

In addition to the above fees, any show, carnival or circus granted a license shall deposit with the city auditor a cash deposit in the amount of \$500.00 guaranteeing that the premises upon which such show,

carnival or circus is located shall be cleaned after the completion of such show, carnival or circus. Upon determination of the City that the same premises have been cleaned, the cash deposit shall be returned to the licensee. Provided, further, that in addition to such fees, an additional fee in an amount from \$100.00 to \$100.00, to be fixed by the City governing body, shall be paid at the time of obtaining the license to provide for fire and police protection in connection with such show, carnival or circus.

ARTICLE 6 – Sales and Use Tax

8.0601 Ordinance #1057, 1082, 1086, 1095

ORDINANCE #1057

ORDINANCE ENACTING A CITY SALES AND USE TAX

Whereas the City Council of the City of Wishek, North Dakota, wishes to enact a Sales & Use tax, be it ordained as follows:

City Sales and Use Tax

Section 1	Definition
Section 2	Sales Tax Imposed
Section 3	Use Tax Imposed
Section 4	Exemptions
Section 5	Maximum Tax Imposed
Section 6	Tax Returns and Information Reports
Section 7	Tax Payments; Collections; Penalties
Section 8	Tax Administrator
Section 9	Corporate Officer Liability
Section 10	Deduction to Reimburse Retailer for Administrative Expenses
Section 11	Dedication of Tax Proceeds
Section 12	Penalties
Section 13	Tax Commencement
Section 14	Termination

Section 1. Definitions

All terms defined in Chapter 57-39.2 and Chapter 57-40.2 of the North Dakota Century Code (NDCC), including all future amendments, are adopted by reference and incorporated herein.

Section 2. Sales Tax Imposed

Except as otherwise provided in this Chapter, a tax of one percent (1%) is imposed upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within the corporate limits of the City of Wishek, North Dakota, of the following to consumers or users:

1. Tangible personal property, consisting of goods, wares or merchandise, including mobile homes.
2. The furnishing or service of communication services or steam other than steam used for processing agriculture products.
3. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the furnishing of bingo cards and playing of any

machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eighty (80%) of the gross receipts collected from coin-operated amusement devices.

4. The leasing or renting of a hotel or motel or tourist court accommodations.
5. The leasing or renting of tangible personal property, the transfer of title to which has not be subjected to a retail sales or use tax under this chapter.
6. Sales of alcoholic beverages and tobacco products as defined in Section 57-39.2-.03.2 NDCC.
7. Furnishing and installment or attachment to real property in this state by a contractor or a subcontractor who is retailer of drapes, hardware for hanging drapes, or carpet for floor covering.
8. Sales through vending machines to the extent taxable by the State under Section 57-39.2-03.3 NDCC.

Section 3. Use Tax Imposed

Except as otherwise provided in this chapter, an excise tax of one percent (1%) is imposed on the storage, use, or consumption in the city of Wishek on:

1. The purchase price of tangible personal property, including mobile homes, purchased at retail for storage, use, or consumption within the city.
2. The fair market value of tangible personal property, including mobile homes, which was not originally purchased for storage, use or consumption in the city, at the time which it is brought into this city.
3. Alcoholic beverages and tobacco products which are stored, used or consumed in this city, as provided in Section 57-40.2-03.2 NDCC.
4. The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in Section 57-40.2-03.3 NDCC. This tax applies only to bids submitted on or after the effective date of this chapter.

Section 4. Exemptions

There are specifically exempted from the provisions of this chapter and from the computation of the amount of tax imposed by it the following:

1. All sales, storage, use, or consumption of tangible personal property which are exempt from imposition and computation of the sales or use tax of the State of North Dakota are specifically exempt from the provision of this chapter.

Section 5. Maximum Tax Imposed

No single transaction by the taxpayer from any one customer involving one or more items is subject to a tax in excess of \$25.00.

Section 6. Tax Returns and Information Reports

The tax administrator is authorized to create, publish, and to require the use of, such tax return forms and information reports as are necessary to administer the tax provided for herein. To the extent feasible, these forms shall incorporate or be integrated with the returns and reports required by the State Tax Commissioner under Sections 57-39.2 and 57-40.2 NDCC.

Section 7. Tax Payments; Collections; Penalties

The tax imposed herein shall be paid and collected as nearly as practical in accordance with the payment, collection and penalty provisions of Chapters 57-39.2 and 57-40.2 NDCC.

Section 8. Tax Administrator

The tax administrator shall be the City Auditor. However, the City Auditor is authorized to contract with the State Tax Commissioner to enforce this chapter, subject to confirmation of the contract by the City Commission. If the contract is made and confirmed, the tax administrator shall be the State Tax Commissioner as long as the contract remains in force.

Section 9. Corporate Officer Liability

Officers of any corporation required to remit taxes imposed by this chapter are personally liable for the failure of the corporation to file required returns or remit required payments. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The tax, penalty, and interest due may be assessed and collected pursuant to the provisions adopted by this chapter.

Section 10. Deduction to Reimburse Retailer for Administrative Expenses

1. A retailer who pays the tax due hereunder within the time limitations prescribed may deduct and retain three percent (3%) of the tax due.
2. The aggregate of deductions allowed by this section may not exceed Two Hundred Fifty and No/100 Dollars (\$250.00) per quarterly period for each business location required to remit sales tax hereunder.
3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the Auditor and Commissioner upon request.

Section 11. Dedication of Tax Proceeds

All revenues raised and collected under this article, less administrative expenses, shall be placed in a separate sales and use tax fund which shall be dedicated exclusively as follows:

1. Capital and Park Improvements - 25%.
2. Economic Development - 75%.

Section 12. Penalties

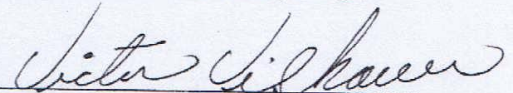
1. If any person fails to file a return or corrected return or to pay any tax within the time required by this chapter or, if upon audit, is found to owe additional tax, such person shall be subject to a penalty as established in Section 57-39.2-18(1) of the North Dakota Century Code. Such penalty may be imposed by the Municipal Court of the City of Wishek or any other Court of competent jurisdiction.
2. The certificate of the Auditor, or where applicable, the North Dakota State Tax Commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this chapter, shall be prima facie evidence thereof.
3. Any person failing to comply with any of the provisions of this chapter or failing to remit within the time herein provided the tax due or any use, sale or purchase of tangible personal property subject to said sales and use tax shall, in addition to penalties imposed hereinabove, be subject to a fine, upon conviction in the Municipal Court, not to exceed Five Hundred Dollars (\$500.00).

Section 13. Tax Commencement

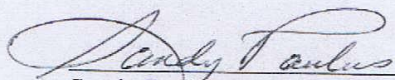
The taxes imposed herein shall apply to sales and uses from and after the 1st day of April, 1997.

Section 14. Termination

1. The sales and use tax imposed by this article shall terminate after December 31, 2001, unless prior to that date a majority of the qualified electors of the City of Wishek vote to extend the sales and use tax indefinitely or to a time certain.
2. This ordinance shall be in full force and effect from and after its final passage, approval and publication.

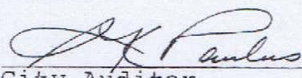

~~Milton Wiest, Mayor~~ ~~Ac 6179 Mayor~~

ATTEST:


Sandy Paulus, Auditor

STATE OF NORTH DAKOTA
CITY OF WISHEK, NORTH DAKOTA

The foregoing instrument was filed for record in my office on the 18th day of February, 1997, at 11:30 o'clock A.M., and was recorded in the Ordinance Book on page 45 thereof.


City Auditor

ORDINANCE NO. 1082

AN ORDINANCE TO ESTABLISH AND REGULATE A CITY SALES, USE, AND GROSS RECEIPTS TAX UNDER THE HOME RULE CHARTER OF THE CITY OF WISHEK

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WISHEK, MCINTOSH
COUNTY, NORTH DAKOTA:**

SALES, USE, AND GROSS RECEIPTS TAX

Section 1. Definitions.

All terms defined in chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code (NDCC), including any future amendments, are adopted by reference. All references to the NDCC include amendments adopted by the North Dakota Legislative Assembly.

Section 2. Collection and Administration.

Where not in conflict with the provisions of this Ordinance, the provisions of NDCC chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed by this Ordinance.

Section 3. Sales Tax Imposed.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, a tax of one (1) percent is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the city of Wishek, North Dakota.

Section 4. Use Tax Imposed.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided in this Ordinance, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the City of Wishek, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of one (1) percent of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the City of Wishek, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in the city at the rate of one (1) percent of the fair market value of the property at the time it was brought into this city.

Section 5. Gross Receipts of Alcoholic Beverages.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of one (1) percent is imposed upon all gross receipts from the sale of alcoholic beverages within the city. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of one (1) percent.

Section 6. Exemptions.

This ordinance does not provide for any exemptions from imposition and computation of the city tax other than those provided for by state law.

Section 7. Contract with Tax Commissioner.

The Wishek City Auditor is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed by this Ordinance. The City Auditor has all powers granted to the Tax commissioner and in the absence of a valid contract with the Tax Commissioner or failure of the Tax Commissioner to perform the delegated duties, shall perform these duties in place of the Tax Commissioner.

Section 8. Dedication of Tax Proceeds.

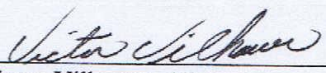
All revenues raised and collected under this ordinance shall be placed in a separate account which shall be dedicated exclusively as follows:

- | | | |
|----|----------------------|-------|
| 1. | Capital Improvements | 12.5% |
| 2. | Park Improvements | 12.5% |
| 3. | Economic Development | 75 % |

Section 9. Effective Date.

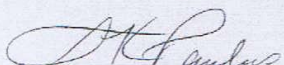
This Ordinance shall take effect after its passage, approval, and publication, but not prior to January 1, 2007.

Approved this 14th day of September, 2006.



Victor Vilhauer - Mayor


Attest:



S. K. Paulus - City Auditor

STATE OF NORTH DAKOTA))
COUNTY OF MCINTOSH))

The foregoing instrument was filed for record in my office on the 15th day of
September, 2006 at 9:30 a.m, and was recorded in the Ordinance Book on page 1104
thereof.



S.K. Paulus, City Auditor

ORDINANCE NUMBER 1086

AN ORDINANCE AMENDING ORDINANCE NUMBER 1082, THE SALES TAX ORDINANCE OF THE CITY OF WISHEK

Be it ordained by the City Council of the City of Wishek, North Dakota, as follows:

- 1. A new section numbered 11 is hereby added to said ordinance, and shall read as follows:

“Section 11: Deduction to Reimburse Retailer for Administrative Expenses.

- 1. A retailer who pays the tax due hereunder within the time limitations prescribed may deduct and retain three percent (3%) of the tax due.
 - 2. The aggregate of deductions allowed by this section may not exceed Two Hundred Fifty and No/100 Dollars (\$250.00) per quarterly period for each business location required to remit sales tax hereunder.
 - 3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the Auditor and Commissioner upon request.
- 2. This ordinance shall take effect after its passage, but not prior to October 1, 2007.

Approved this 12th day of June, 2007.

Victor Vilhauer
Victor Vilhauer - Mayor

Attest:

S. K. Paulus
S. K. Paulus - City Auditor

INDIVIDUAL ACKNOWLEDGMENT

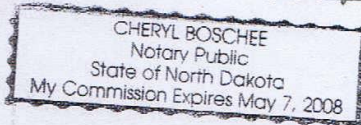
State Of North Dakota)
County of McIntosh) ss

STATE OF NORTH DAKOTA
CITY OF WISHEK, NORTH DAKOTA

On this day before me, the undersigned Notary Public, personally appeared Victor Vilhauer to me known to be the individual described in and who executed the document and acknowledged that signed the document as free and voluntary act and deed, for the uses and purposes therein mentioned.
Given under my hand and official seal this 12th day of June, 2007.

The foregoing instrument was filed for record in my office on the 12th day of June, 2007, at 8:00 A.M. and was recorded in the Ordinance Book on page 173 thereof.

By Cheryl Boschee
My commission expires: 5-7-08



S. K. Paulus
City Auditor

ORDINANCE NO. 1095

AN ORDINANCE TO ESTABLISH AND REGULATE A CITY SALES, USE, AND GROSS RECEIPTS TAX UNDER THE HOME RULE CHARTER OF THE CITY OF WISHEK

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WISHEK, MCINTOSH COUNTY NORTH DAKOTA THAT THE HOME RULE CHARTER AND ORDINANCE NO. 1082 BE AMENDED AS FOLLOWS:

SALES, USE, AND GROSS RECEIPTS TAX

Section 1. Definitions.

All terms defined in chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code (NDCC), including any future amendments, are adopted by reference. All references to the NDCC include amendments adopted by the North Dakota Legislative Assembly.

Section 2. Collections and Administration.

Where not in conflict with the provisions of this Ordinance, the provisions of NDCC chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed by this Ordinance.

Section 3. Sales Tax Imposed.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, a tax of one and one half percent (1½ %) percent is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the city of Wishek, North Dakota.

Section 4. Use Tax Imposed.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided in this Ordinance, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the City of Wishek, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of one and one half (1½ %) percent of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the City of Wishek, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in the city at the rate of one and one half (1½ %) percent of the fair market value of the property at the time it was brought into this city.

Section 5. Gross Receipts of Alcoholic Beverages.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of one and one half (1½ %) percent is imposed upon all gross receipts from the sale of alcoholic beverages within the city. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of one and one half (1½) percent.

Section 6. Exemptions.

This ordinance does not provide for any exemptions from imposition and computation of the city tax other than those provided for by state law.

Section 7. Contract with Tax Commissioner.

The Wishek City Auditor is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed by this Ordinance. The City Auditor has all powers granted to the Tax commissioner and in the absence of a valid contract with the Tax Commissioner or failure of the Tax Commissioner to perform the delegated duties, shall perform these duties in place of the Tax Commissioner.

Section 8. Dedication of Tax Proceeds.

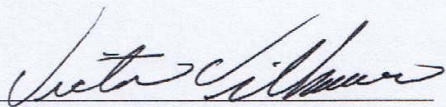
All revenues raised and collected under this ordinance shall be placed in a separate account which shall be dedicated exclusively as follows:

- | | |
|-------------------------|----------|
| 1. Capital Improvements | 8.334 % |
| 2. Park Improvements | 41.666 % |
| 3. Economic Development | 50.000 % |

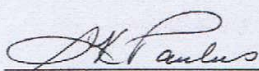
Section 9. Effective Date.

This Ordinance shall take effect after its passage, approval, and publication, but not prior to January 1, 2013.

Approved this 4th day of ~~August~~^{Sept.}, 2012.


Victor Vilhauer - Mayor

ATTEST:

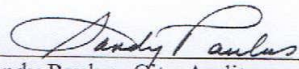

S. K. Paulus - City Auditor

First Reading on this 6th day of August, 2012.

Second Reading on this 4th day of September, 2012.

STATE OF NORTH DAKOTA)
)ss.
CITY OF WISHEK, NORTH DAKOTA)

I hereby certify that the foregoing instrument was filed for record in my office on the
5th day of Sept., 2012 at 10 o'clock A M., and was
duly recorded in the Ordinance Book of Ordinance Book on page _____ thereof.



Sandy Paulus, City Auditor

ARTICLE 7 – Validity

8.0701 Validity

If any section, part, article or provision of this chapter or the application thereof to any person, firm, corporation or association or to any circumstances shall be held to be invalid for any cause whatsoever, the remainder of this ordinance or the application to persons, firms, corporations or circumstances shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

ARTICLE 8 - Penalty

8.0801 Penalty

Any person, firm, corporation or association violating any of the terms, articles or provisions of this chapter, for which a specific penalty is not prescribed, shall upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00). The court may, in addition thereto, revoke the permit or license of such violator, or terminate or revoke all powers, rights and privileges given by any license granted under the terms of this chapter. Each day or part thereof that a person shall be in violation of the provisions of this chapter shall be considered a separate violation.