

Table of Contents

PART I – HOME RULE CHARTER.....	4
PART II – CODE OF ORDINANCES	10
TITLE 1 – GENERAL PROVISIONS	10
<i>Chapter 1.01 – Code Adoption</i>	<i>10</i>
<i>Chapter 1.04 – City Limits</i>	<i>12</i>
TITLE 2 – ADMINISTRATION AND PERSONNEL	13
<i>Chapter 2.01 – City Council.....</i>	<i>13</i>
<i>Chapter 2.04 – Elective Officials</i>	<i>14</i>
<i>Chapter 2.05 – Elective Officers Other Than Governing Body</i>	<i>17</i>
<i>Chapter 2.07 – Appointive Officers</i>	<i>18</i>
<i>Chapter 2.13 – Special Provisions Regarding City Officers</i>	<i>19</i>
<i>Chapter 2.26 – Planning Commission</i>	<i>21</i>
<i>Chapter 2.34 – Elections</i>	<i>23</i>
<i>Chapter 2.37 - Records Management Policy.....</i>	<i>25</i>
<i>Chapter 2.40 – Ordinances</i>	<i>25</i>
TITLE 3 – REVENUE & FINANCE	28
<i>Chapter 3.02 – Conveyance, Sale, Lease or Disposal of Property</i>	<i>28</i>
<i>Chapter 3.08 – Sales and Use Tax</i>	<i>30</i>
TITLE 4 – BUSINESS REGULATIONS AND LICENSES.....	34
<i>Chapter 4.08 – Games of Chance</i>	<i>34</i>
<i>Chapter 4.12 – Hawkers and Peddlers</i>	<i>35</i>
<i>Chapter 4.18 – Shows, Carnivals, and Circuses.....</i>	<i>36</i>
<i>Chapter 4.22 – Franchises</i>	<i>36</i>
TITLE 6 – ANIMALS.....	47
<i>Chapter 6.04 – Dogs and Cats</i>	<i>47</i>
<i>Chapter 6.08 – Control and Inspection</i>	<i>49</i>
TITLE 8 – INTOXICATING LIQUOR	51
<i>Chapter 8.01 – Definitions</i>	<i>51</i>
<i>Chapter 8.03 - Exceptions</i>	<i>52</i>
<i>Chapter 8.05 - Licenses</i>	<i>52</i>
<i>Chapter 8.07 - Hours and Time of Sale - Penalty</i>	<i>58</i>
<i>Chapter 8.09 - Licensee's Responsibility</i>	<i>58</i>
<i>Chapter 8.11 – Prohibitions</i>	<i>58</i>
<i>Chapter 8.13 - Premises</i>	<i>61</i>
<i>Chapter 8.15 – Penalties</i>	<i>61</i>
TITLE 9 – PUBLIC PEACE, SAFETY, AND MORALS	62
<i>Chapter 9.01 – Purpose, Definitions, and Retroactivity.....</i>	<i>62</i>
<i>Chapter 9.04 – Offenses of General Applicability</i>	<i>65</i>
<i>Chapter 9.08 - Offenses Against the Integrity and Effectiveness of Law Enforcement, Judicial Proceedings, and Government Operations</i>	<i>66</i>
<i>Chapter 9.12 - Discrimination and Civil Rights</i>	<i>67</i>
<i>Chapter 9.16 – Offenses Against Persons.....</i>	<i>67</i>
<i>Chapter 9.20 – Offenses Against Property.....</i>	<i>69</i>
<i>Chapter 9.24 – Theft and Related Offenses</i>	<i>72</i>

<i>Chapter 9.28 – Offenses Against Public Order, Health, Safety, and Sensibilities</i>	79
<i>Chapter 9.32 – Drug, Alcohol, and Tobacco Related Offenses</i>	81
<i>Chapter 9.34 – Curfew</i>	89
<i>Chapter 9.36 – Miscellaneous Offenses</i>	90
<i>Chapter 9.40 – Penalties and Sentencing</i>	91
TITLE 11 – PARKS	102
<i>Chapter 11.01 – Park District of the City of Rolla</i>	102
TITLE 12 – STREETS AND SIDEWALKS	103
<i>Chapter 12.01 - Construction and Repair</i>	103
<i>Chapter 12.03 - Use and Care of Streets, Sidewalks and Public Places</i>	105
<i>Chapter 12.05 - Unclaimed and Abandoned Property</i>	108
<i>Chapter 12.07 – Trees</i>	110
TITLE 13 - TRAFFIC	111
<i>Chapter 13.01 - Definitions</i>	111
<i>Chapter 13.03 – Traffic Administration</i>	122
<i>Chapter 13.06 – Enforcement and Obedience to Traffic Regulations</i>	123
<i>Chapter 13.09 – Traffic Control Devices</i>	128
<i>Chapter 13.12 – Speed Regulations and Care Required</i>	130
<i>Chapter 13.15 – Turning Movements</i>	134
<i>Chapter 13.18 – Special Stops</i>	137
<i>Chapter 13.21 – Stop and Yield Intersections</i>	137
<i>Chapter 13.24 – Miscellaneous Driving Rules</i>	139
<i>Chapter 13.27 – Pedestrians</i>	150
<i>Chapter 13.30 – Motorcycles</i>	152
<i>Chapter 13.33 – Bicycles</i>	159
<i>Chapter 13.36 – Equipment of Vehicles</i>	163
<i>Chapter 13.39 – Regulating the Kinds and Classes of Traffic on Certain Roads</i>	167
<i>Chapter 13.42 – Snowmobiles</i>	167
<i>Chapter 13.45 – Off-Highway Vehicles</i>	170
<i>Chapter 13.48 – Criminal Traffic Violations</i>	174
<i>Chapter 13.51 – Disposition of Traffic Offenses</i>	180
<i>Chapter 13.54 – Parking</i>	187
<i>Chapter 13.57 – NDCC</i>	193
TITLE 14 – PUBLIC UTILITIES	194
<i>Chapter 14.02 – Street Lights</i>	194
<i>Chapter 14.04 – Garbage & Recycling</i>	194
<i>Chapter 14.06 – Utility Established</i>	195
<i>Chapter 14.08 – Water Service</i>	196
<i>Chapter 14.10 – Regulation of Sewer Use</i>	202
<i>Chapter 14.12 – Infrastructure Fund</i>	209
<i>Chapter 14.15 – Adoption of State Plumbing Code</i>	209
<i>Chapter 14.17 - Shutting Off Services</i>	210
<i>Chapter 14.14 – Municipal Dump Grounds, Recycling Center, and City Waste Collection</i>	210
<i>Chapter 14.22 – Penalty</i>	211
TITLE 15 – PUBLIC NUISANCE	212
<i>Chapter 15.01 – Definitions</i>	212
<i>Chapter 15.02 – Accumulation of Garbage – Nuisance</i>	213
<i>Chapter 15.03 – Trees – Nuisance</i>	213
<i>Chapter 15.04 – Noxious Weeds & Tall Grass</i>	213
<i>Chapter 15.05 – Lot Nuisance</i>	215

<i>Chapter 15.07 – Sanitary Nuisance</i>	<i>217</i>
<i>Chapter 15.08 – Noises.....</i>	<i>218</i>
<i>Chapter 15.09 – Storage Containers.....</i>	<i>219</i>
<i>Chapter 15.14 – Nuisance Notice</i>	<i>219</i>
<i>Chapter 15.15 – Penalties</i>	<i>220</i>
TITLE 16 - FIRE.....	222
<i>Chapter 16.01 - Organization and Regulation of the Fire Department</i>	<i>222</i>
<i>Chapter 16.03 – Fire Limits</i>	<i>225</i>
<i>Chapter 16.05 – Fire District</i>	<i>226</i>
<i>Chapter 16.07 – Fire Prevention</i>	<i>226</i>
<i>Chapter 16.09 – Fireworks.....</i>	<i>227</i>
<i>Chapter 16.10 – Unlawful to Sell or Store Explosive and Combustible Products</i>	<i>227</i>
<i>Chapter 16.12 - Penalty.....</i>	<i>228</i>
TITLE 17 – BUILDINGS & CONSTRUCTION.....	229
<i>Chapter 17.01 – Electrical Code</i>	<i>229</i>
TITLE 19 – ZONING	230
<i>Chapter 19.01 – Introduction.....</i>	<i>230</i>
<i>Chapter 19.02 – General Provisions</i>	<i>235</i>
<i>Chapter 19.04 – Zoning Districts.....</i>	<i>239</i>
<i>Chapter 19.06 – Subdivision Regulations.....</i>	<i>251</i>
<i>Chapter 19.08 – Administration and Enforcement</i>	<i>257</i>
<i>Chapter 19.10 – Application of Zoning Regulations to Unincorporated Territory Located Within One-Half Mile of City Limits.....</i>	<i>259</i>
<i>Chapter 19.12 – Appeals</i>	<i>259</i>

PART I – HOME RULE CHARTER

ARTICLE I – Incorporation

The inhabitants of the City of Rolla, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the “City of Rolla.”

ARTICLE II – Governing Body to Exercise Powers

Subject to the limitations imposed by the state constitution, state law, and this charter, all powers of the city shall be vested in the elected governing body. The elected governing body shall enact local legislation, adopt budgets, determine policies, and prescribe the functions of government to be performed under this charter by the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

ARTICLE III – Powers of City

The city shall have all powers granted to municipal corporations by the constitution and laws of this state and by this charter, together with all the implied powers necessary to carry into execution all powers granted.

Among its enumerated powers, which may be implemented by ordinance subject to the limitations specified in the charter, shall be the following:

1. To acquire, hold, operate, and dispose of property within or without the corporate limits, and exercise the right of eminent domain for such purposes.
2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to levy and collect taxes, excises, fees, charges and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings and improvements; to contract debts, borrow money, issue bonds, warrants and other evidence of indebtedness; to establish charges for any city or other services, and to establish debt and mill levy limitations, provided that the mill levies ordered imposed by the governing body on taxable property subject to ad valorem taxation shall not exceed in total the sum of levies authorized by state statutes and the constitution for cities of similar classification to that of the City of Rolla, and provided further that the governing body of the City of Rolla shall spend no more than \$2.5 million plus an automatic spending limit increase of 3% per year, on any project or related elements of said project that will cause the citizenry an crease in any type of taxation without the approval of the electorate, further the passage by the electorate for any such expenditure shall require 60% of the electorate vote in order to be approved and authorized by the electorate.
3. To fix fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental powers.

4. To provide for city officers, agencies, and employees, their selection terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government including its governing body, executive officer, and city officers.
5. To provide for city courts, their jurisdiction and powers over ordinance violations, duties administration, and the selection, qualification, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
6. To provide for all matters pertaining to city elections, except as to qualifications of electors.
7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals and welfare, and penalties for a violation thereof.
8. To lay out or vacate streets, alleys and public grounds, and to provide for the use, operation, and regulation thereof.
9. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.
10. To engage in any utility, business, or enterprise permitted by the Constitution or not prohibited by statute or to grant and regulate franchises therefore to a private person, firm, or corporation.
11. To provide for zoning, planning, and subdivision of public or private property within the city limits; to provide for such zoning, planning and subdivision of public or private property outside the city limits as may be permitted by state law.
12. To levy and collect franchise and license taxes for revenue purposes.
13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
14. To fix the boundary limits of said city and the annexation and de-annexation of territory adjacent to said city except that such power shall be subject to, and shall conform with, the state law made and provided.
15. To contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project or works.
16. To impose sales tax and use taxes in addition to any other taxes imposed by law. Proceeds from any such tax may be pledged to amortize bonds or other debt instruments which may be used to finance.

The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which under the constitution and laws of this state, it would be competent for this charter specifically to enumerate.

The statutes of the State of North Dakota, so far as applicable shall continue to apply except as superseded by this charter or by ordinances passed pursuant to this charter.

ARTICLE IV – Referendum and Initiative

1. The voters of the City of Rolla shall have the power to refer and initiate ordinances and resolutions, except that the power of initiative and referendum shall not extend to the annual appropriations ordinance, or any limitation as to the annual mill levy, nor to those ordinances or resolutions implementing public projects upon which an election has previously been held, or which provide for meeting obligations of bonded indebtedness incurred by a prior ordinance or a prior election or referendum, nor shall the power of initiative and referendum extend to special improvement projects under which law provides for protest procedures or to special assessment projects carried out under the provision of the North Dakota Century Code.
2. Initiative petitions must be signed by qualified voters of the city equal to at least eight (8%) percent of the most current United States census for the City of Rolla.
3. Referendum petitions must be signed by qualified voters of the city equal to at least eight (8%) percent of the most current United States census for the City of Rolla.
4. Each petition, whether for initiating referring an ordinance or resolutions, shall contain or have attached thereto throughout their circulation and full text of the ordinance or resolution proposed or referred. In addition, each petition shall list the names of the three electors who shall constitute the “committee for the petitioners” who shall represent and act for the petitioners.
Each petition shall also contain an affidavit signed by the circulator of the petition affirming that the signers thereto are believed by him to be qualified electors of the City of Rolla.
5. Referendum petitions for ordinances must be filed with the City Auditor within ninety (90) days after the second reading of the ordinance referred. Referendum petitions for resolutions must be filed with the City Auditor within ninety (90) days after the passage of the resolution referred.
6. The City Auditor shall pass upon the sufficiency of each petition and shall have twenty (20) days after the petition is filed to certify as to its sufficiency. A petition shall be deemed sufficient if the City Auditor has not yet certified to the contrary in said twenty (2) day period. If the City Auditor finds the petition insufficient, he shall notify the “committee of the petitioners,” specifying the insufficiencies, and allow seven days for correction or amendment, and in the case of a petition for initiating an ordinance only, for additional signatures within said seven (7) day period.
7. Upon the filing of a referendum petition, the ordinance or resolution referred, except emergency ordinances or resolutions, as hereafter defined, shall be suspended. Such suspension shall terminate:
 - a. If the petitions are deemed to be insufficient and not corrected or amended as above provided; or
 - b. The petitions are withdrawn by the “committee for the petitioners,” as provided in subsection 10 of this article; or
 - c. The governing body of the city repeals the ordinance or resolution; or
 - d. After thirty (30) days have elapsed after the city election on the referral.An emergency ordinance or resolution is an ordinance or resolution thus designated by the governing body and passed by three-fourths (3/4) vote of such body.
8. Upon the final determination of the sufficiency of the petitions for initiating an ordinance or resolution, the governing body shall have sixty (60) days in which to adopt a proposed ordinance or resolution. If the council fails to adopt a proposed

ordinance or resolution, without any change in the substance from that proposed, within the said sixty (60) day period, the governing body shall submit the same to the voters of the city no later than the next regular general election after the final determination of the sufficiency of the petition.

Copies of the proposed ordinance or resolution shall be available at the office of the City Auditor at least ten (10) days prior to the election. The ballot shall fairly state a summary of the proposed ordinances or resolutions' provisions and copies of the ordinance or resolution shall be available at the polling places.

9. Upon final determination of the sufficiency of the petition of referendum, the city governing body shall cause an election, adhering to the State of North Dakota election laws, on the referral to be held no later than the next election in the City of Rolla. The ballot shall fairly state a summary of the ordinance or resolution referred. Copies of this ordinance or resolution shall be available at the polls as well as from the City Auditor for at least ten (10) days prior to the election.
10. An initiative or referred referendum petition may be withdrawn at any time prior to the scheduling of the election by the governing body upon the filing of a request for withdrawal signed by all members of the "committee for the petitioners."
11. If the majority of electors voting on an initiated ordinance or resolution vote in its favor, it shall be considered adopted upon certification of election results and shall thenceforth stand the same as if adopted by the city's governing body. If a majority of electors voting on a referred ordinance or resolution vote against it, such ordinance or resolution shall be considered repealed upon certification of the elections results.
12. Any ordinance or resolution adopted pursuant to initiative as by this article provided may not be referred except at a regular city election taking place at least two years after the election at which such initiative ordinance or resolution was adopted. A governing body may not repeal or make any material amendment to the initiated ordinance or resolution or to an ordinance or resolution referred and upheld by a vote of the people except by vote of three-fourths (3/4) of the members therefore for ten (10) years after the date of the election adopting such ordinance or resolution; thereafter, such an ordinance or resolution may be repealed or amended the same as any other ordinance or resolution.
13. An ordinance or resolution referred and repealed by vote of the electors as herein provided shall not be reenacted by the governing body before a period of at least two (2) years from the date of the referral election.
14. This article shall be self-executing, and all of its provisions treated as mandatory. Ordinances or resolutions may be enacted to facilitate its operation but no ordinances or resolutions shall be enacted to hamper, restrict, or impair the exercise of the rights herein reserved to the people.

ARTICLE V – Separability Clause

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

ARTICLE VI – Plenary and Implied Powers for the Governing Body

The governing body shall have plenary power to enact and make all proper and necessary ordinance, resolutions, or orders to carry out and give effect to the express and implied powers granted in this charter to the end that a complete, harmonious and effective municipal government may be initiated, installed, operated, and maintained in the city, and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the city and its inhabitants.

ARTICLE VII – Succession in Government

Section 1 – Rights of officers and employees preserved

Nothing in this charter, except as specifically provided, shall effect or impair the rights or privileges of officers or employees of the city or of any office, department or agency existing at the time when this charter shall take effect, or any provision of law in force at the time when this charter shall take effect and not inconsistent with the provisions of this charter, in relation to the personnel, appointment, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city or any office, department or agency.

Section 2 – Continuance of present officers

All persons holding executive and administrative office at the time this charter takes effect shall continue in office and shall continue the performance of their duties until provisions shall have been made by the governing board for the performance of such duties in some other manner or the discontinuance of such office.

Section 3 – Continuance of present offices, departments, or agencies

Any office, department, or agency, heretofore existing, shall continue to exercise powers and duties the same as were heretofore exercised and shall have the power to continue any business proceedings or other matters within the scope of its regular powers and duties until such office, department or agency shall be changed or abolished by the governing body.

The powers conferred and the duties imposed upon any office, department or agency of the city by the laws for this state shall, if such office, department or agency be abolished by this charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the governing body.

Section 4 – Continuance of appointive boards, authorities, and commissions

All appointive boards, authorities and commissions, heretofore existing shall continue and shall exercise such powers and duties as were granted then until such boards, authorities, and commissions shall be changed or abolished by the governing body.

Section 5 – Continuance of contracts

All contracts entered into by the city, or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect.

Section 6 – Pending actions and proceedings

The adoption of this charter shall not abate or otherwise affect any action or proceeding civil or criminal, pending when it takes full effect, brought by or against the city or any office, department, agency or officer thereof.

Section 7 – Ordinances to remain in force

All ordinances, resolutions and regulations of the city in force at the time of this charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in force until the same shall be duly amended or repealed.

Section 8 – Inauguration of government under this charter

If a majority of the qualified electors of the city voting on the question, vote to ratify this charter, the provisions of this charter shall go into effect upon the filing of the charter by the governing body with the Secretary of State, the Clerk of District Court for Rolette County, and the office of the City Auditor, within ninety (90) days.

ARTICLE VIII – Construction

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power state in this charter.

ARTICLE IX – Method of Amendment and Repeal

This Charter may be amended or repealed as provided by section 40-5.1-07 of the North Dakota Century Code and acts amendatory thereto.

Home Rule Charter for City of Rolla was submitted by the Home Rule Charter Commission to the City Council of Rolla, November 2, 1992. It was published in the official newspaper October 26, 1992. Charter was adopted at a Special Election on December 4, 1992.

Receipt of true and correct copies of the City of Rolla Home Rule Charter and verification of Special Election results were received by the Secretary of State of North Dakota on December 14, 1992, Clerk of District Court Rolette County North Dakota on December 10, 1992, and by City Auditor for City of Rolla on December 10, 1992.

PART II – CODE OF ORDINANCES

TITLE 1 – GENERAL PROVISIONS

Chapter 1.01 – Code Adoption

1.01.010 Title – Citation – Reference.

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

1.01.020 Reference applies to amendments.

Whenever a reference is made to this code as the Rolla Municipal Code or to any portion thereof, or to any ordinance of the City of Rolla, the reference shall apply to all, amendments, corrections and additions heretofore, now, or hereafter made.

1.01.030 Codification authority.

This code consists of all the regulatory and penal ordinances and certain administrative ordinances of the City of Rolla, North Dakota, codified pursuant to the laws of the state of North Dakota.

1.01.040 Definitions and construction.

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

- a. “Code” means the Rolla Municipal Code.
- b. “City” means the city of Rolla.
- c. “City Council” means the city council of the city of Rolla.
- d. “County” means the county of Rolette.
- e. “Person” means any natural, person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust, or their manager, lessee, agent, servant, officer, or employee.
- f. “State” means the state of North Dakota.
- g. “Oath” includes affirmation.

- h. Gender. The masculine gender includes the feminine and vice versa.
- i. Number. The singular number includes the plural and vice versa.
- j. Tenses. The present tense includes the past and future tenses, and the future tense includes the present tense.
- k. Shall, May. "Shall" is mandatory, "may" is permissive.
- l. Title of Office. The use at the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission at the city of Rolla.

1.01.050 Title, chapter and section headings.

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, or section hereof.

1.01.060 Reference to specific ordinances.

The provisions of this code shall not in any manner affect deposits or other matters of record which refer to, or are otherwise connected with, ordinances which are therein specifically designated by number or otherwise and which are included within this code, but such reference shall be constructed to apply to the corresponding provisions contained within this code.

1.01.070 Effect of code on past actions and obligations.

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

1.01.080 Repeal

All general ordinances of the city of Rolla not included in this code, in conflict with this code, or excluded from the operation and effect of this code are hereby repealed. Ordinance No. 500 and ordinances passed subsequently are not hereby repealed.

1.01.090 Exclusions.

Every special ordinance of this city governing the following subject matter, whether contained in whole or in part within in this code is excluded from the operation and effect of Section 1.01.080 and is not affected by the repeal provisions hereof: Annexations; franchises;

naming roads, streets and public places; acquisition or disposal of public property; vacation of streets, alleys, or public ways; acceptance of any gift, devise, license or other benefit; special improvement districts or street grades, levying taxes, provided that the foregoing enumeration of exceptions or exclusions shall not be deemed to be exclusive or exhaustive, it being the intent and purpose to exclude from repeal any and all ordinances not of a general nature.

1.01.100 Effective date.

This code shall become effective on the date Ordinance No. 500, adopting this code as the Rolla Municipal Code, shall become effective.

1.01.130 Severability.

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

Chapter 1.04 – City Limits

1.04.010 Territorial extent of the city.

All that territory embraced within the limits and boundaries of the portion of Rolette County, State of North Dakota, as shown by the official Plat known as the Plat of the City of Rolla, according to the map or plat, filed and recorded in Book “A” of Plats on page 48 of the records of the office of the Register of Deeds in and for the County of Rolette and State of North Dakota, shall be the limits and boundaries of the City of Rolla, Rolette County, North Dakota; and all annexed property filed and recorded in the officer of the Register of Deeds in and for the County of Rolette and State of North Dakota.

TITLE 2 – ADMINISTRATION AND PERSONNEL

Chapter 2.01 – City Council

2.01.020 Regular Meetings

The City Council shall hold its regular monthly meeting at least once a month on a date certain established by resolution unless some other time and place shall be specifically fixed by the council. The time and place of said meeting shall also be fixed by resolution. If a regular meeting falls upon a holiday, the meeting must be held upon the next business day with the same effect as if conducted upon the day appointed. The meeting for the organization of the city council must be held in conjunction with the first meeting in July of each even-numbered year.

2.01.030 Special Meetings

Special meetings may be called at any time by the Mayor or any two members of the Council, to consider matters mentioned in the call to such meeting. Written notice of the special meeting shall be given to each member of the Council at least three hours before the time of the meeting. The three-hour written notice requirement for special meetings may be waived orally or in writing.

2.01.031 Reconsidering or Rescinding Votes at Special Meeting

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.

2.01.040 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 N.D.C.C. 44-04-20 and amendments.

2.01.050 Quorum

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.

2.01.060 Council Committees

Council members shall be appointed to committees by the Mayor with the advice and consent of the Council. Council members serving on the committee may then select and recommend to the Mayor for appointment the names of lay persons to serve on the committee.

The Mayor, with the advice and consent of the Council, may appoint lay members of the committee from the list provided. The committee meeting schedule shall be set at the July Council meeting and the committee meeting schedule shall be posted at the City Hall office. Council Committees shall be set by resolution by the City Council.

2.01.070 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.

Chapter 2.04 – Elective Officials

2.04.010 City Council – Who Constitutes

The governing body of the City shall be the City Council which shall be composed of the mayor and council members. The mayor and 6 council members shall be elected as provided by law.

2.04.020 At-Large Election

All council members shall be elected at large.

2.04.030 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.

2.04.040 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.

2.04.050 When President and Vice President of a Council are Elected

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.

2.04.060 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.

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.

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

During the absence of the mayor from the City or during the mayor's 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.

2.04.080 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.

2.04.090 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.

2.04.100 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.

2.04.110 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.

2.04.120 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.

2.04.130 Ordinance or Resolution Signed or Vetoed by Mayor

The mayor shall sign or veto each ordinance or resolution passed by the council. Any action vetoed by the mayor may be overridden by the city council.

An ordinance or resolution adopted by the city council is not enacted until the ordinance or resolution is approved by the mayor or passed over the mayor's veto. An ordinance or resolution passed by the governing body of a city operating under the council form of government must be deposited in the office of the city auditor for the approval of the mayor. If the mayor approves the ordinance or resolution, the mayor shall sign the ordinance or resolution. An ordinance or resolution not approved by the mayor must be returned by the mayor with the mayor's objections in writing to the next regular or special meeting of the council occurring not less than five days after the passage of the ordinance or resolution. The veto may extend to an entire ordinance or resolution or to any one or more items or appropriations contained in any ordinance or resolution making an appropriation. If a veto extends to only a part of an ordinance or resolution, the residue takes effect. If the mayor fails to return any ordinance or resolution with the mayor's objections within the time specified in this section, the mayor is deemed to have approved the ordinance or resolution. Any veto of an ordinance or resolution may be overridden by the city council, if two-thirds of its members pass a motion to override the veto. Upon such action, the ordinance or resolution is effective notwithstanding the veto. The vote to pass an ordinance or resolution over the mayor's veto must be taken by yeas and nays and entered in the journal.

2.04.140 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.

2.04.150 Mayor May Call on Residents to Aid in Enforcing Ordinances

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

2.04.160 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.

2.04.170 Mayor May Administer Oath

The mayor of the city may administer oaths and affirmations.

2.04.180 Restrictions on Members of Board

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

2.04.190 Compensation of the mayor and city council members

The Mayor and Council Members of this City shall receive compensation as established by ordinance. The compensation of the Mayor shall be \$300.00 per month and an expense allowance in an amount that shall be determined by the City Council. The compensation of Council Members shall be \$150.00 per month.

Chapter 2.05 – Elective Officers Other Than Governing Body

2.05.010 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.

2.05.020 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.

2.05.030 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.

2.05.040 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.

2.05.050 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.

Chapter 2.07 – Appointive Officers

2.07.010 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; and
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.

2.07.020 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.

2.07.030 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.

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 during the month and shall duly give to the council a copy of the 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.

2.07.040 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 governing body of the city 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, keep a docket of all cases to which the city may be a party in any court of record in which must be entered briefly all steps taken in each such case and such docket must be open to public inspection at all reasonable hours, and perform all other duties prescribed by statutes of the state, or by an ordinance, resolution or proper instruction of the city council.

2.07.050 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

Chapter 2.13 – Special Provisions Regarding City Officers

2.13.010 Bonds of Municipal Officers and Employees

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

1. city auditor
2. municipal judge
3. city assessor; and
4. city manager

2.13.020 Oaths of Municipal Officers

Every person elected or appointed to any municipal office, before the person 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 city 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.

2.13.030 Salaries of Elected Officers Fixed by Resolution

The salary of the municipal judge shall be set by resolution of the city governing body.

2.13.040 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.

2.13.050 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.

Such persons engaged in travel outside of the state shall not claim a sum in excess of that allowed by state law per 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. Any person filing a false claim with the City for mileage or expenses as herein permitted is guilty of an infraction.

2.13.060 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.

2.13.070 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.

2.13.080 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.

2.13.090 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.

Chapter 2.26 – Planning Commission

2.26.010 Creation

A planning commission for the City of Rolla, North Dakota, is created pursuant to Chapter 40-48 of the North Dakota Century Code.

2.26.020 Powers

The planning commission has all of the powers, authority, responsibility and duties as provided by law.

2.26.025 Zoning commission

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

2.26.030 Members – Number of – How appointed

The planning commission shall consist of five members, as appointed by the Mayor with the approval of the City Council, and in addition thereto the Mayor, the City Engineer and the City Attorney shall be ex officio members of the planning commission. In addition to the members appointed by the city the planning commission shall include one person residing outside of the corporate limits of the city but within the territorial limits of the subdivision authority as is exercised by the city, if such a person is available and willing to serve on the planning commission. Such person shall be appointed by the board of county commissioners

2.26.035 President of commission – Meetings – Record to be kept – Appointment officers and employees – Power to contract

The planning commission shall elect its president for a term of one year from among the appointed members. The commission shall hold at least one regular meeting in each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, and such record shall be a public record. The commission may appoint such officers and employees as it may deem necessary for its work, and the appointment, promotion, demotion, and removal of such officers and employees shall be subject to the same provisions of law as govern other corresponding civil employees. The commission may contract with architects, city planners, engineers, and other consultants for such services as it may require.

2.26.040 Vacancies

When a vacancy occurs by expiration of a term, the new appointment shall be for the unexpired portion of the term, the appointment to be made by the Mayor and confirmed by resolution of the City Council. If a vacancy occurs otherwise than by expiration of a term, it shall be filled in the same manner for the unexpired portion of the term. The terms of the ex officio members of the commission shall correspond to their respective official tenures.

Chapter 2.34 – Elections

2.34.010 Qualified Electors in Municipal Elections - Restrictions

Every resident of a municipality who is qualified to vote therein at general elections may vote at all municipal elections held therein.

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

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.

2.34.030 Designation of Polling Places for Municipal Elections

The governing body of the City, at the time of calling any general or special municipal election, 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.

2.34.040 Compensation of Inspectors, Judges and Clerks at Municipal Elections

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.

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

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

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

A candidate for any public office in the City may be nominated by filing with the city auditor, at least sixty-four 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 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 sixty-fourth 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.

2.34.070 Ballots in Municipalities - Makeup

The auditor of the City shall place only the names of the persons nominated upon the ballot. The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The auditor shall determine the arrangement of the names of the candidates upon the ballot by conducting a drawing immediately 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.

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

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.

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

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.

2.34.100 City Auditor to Notify of Election or Appointments

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.

2.34.110 New Election Upon Failure to Elect

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

2.34.120 Special Elections Conducted in Same Manner as General Elections

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

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

The person having the highest number of votes for any municipal office shall be declared elected to such office. In case of a tie vote in the election of any municipal officer, 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 the 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.

Chapter 2.37 - Records Management Policy

2.37.010 Adoption of Policy

The management of records in the City shall meet with the provisions of the records retention schedules published by the Records Management Division of the North Dakota Information Technology Department, a copy of which is on file with the City auditor.

Chapter 2.40 – Ordinances

2.40.010 Enacting Clause for Ordinances

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

2.40.020 Procedure in Passing Ordinances

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

2.40.030 Yea and Nay Vote on Passage - When Required

The ye 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.

2.40.040 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.

2.40.050 Publication of Ordinances

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

2.40.060 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.

2.40.070 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.

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

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.

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

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.

2.40.100 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.

TITLE 3 – REVENUE & FINANCE

Chapter 3.02 – Conveyance, Sale, Lease or Disposal of Property

3.02.010 Competitive Bidding Requirements – Construction of Public Improvement

When the estimated costs for the construction of a public improvement is in excess of two hundred thousand dollars, competitive bidding is required.

If the estimated cost for construction of a public improvement is in excess of two hundred thousand dollars, plans, drawings, and specifications for the improvement shall be procured from an architect or engineer. Plans, drawings, and specifications of an architect or engineer must be stamped and sealed by the date of the initial bid advertisement.

“Construction” means the process of building, altering, repairing, improving, or demolishing any public structure or building or other improvement to any public property. The term does not include the routine operation or maintenance of existing facilities, structures, buildings, or real property or demolition projects costing less than two hundred thousand dollars.

“Public Improvement” means any improvement undertaken by a governing body for the good of the public and which is paid for with any public funds, including public loans, bonds, leases, or alternative funding, and is constructed on public land or within an existing or new public building or any other public infrastructure or facility if the result of the improvement will be operated and maintained by the governing body.

3.02.020 Procedure

If the estimated cost for the construction of a public improvement is in excess of two hundred thousand dollars, the governing body shall advertise for bids by publishing for three consecutive weeks. The first publication of the advertisement must be at least twenty-one days before the date of the opening of bids. The advertisement must be published in the official newspaper of the political subdivision in which the public improvement is or will be located, in a daily newspaper having a general circulation in the area where the project is located, and in a trade publication, electronic plan service, builders exchange, or other industry-recognized method of general circulation among the contractors, building manufacturers, and dealers in this state, except the advertisement for a public improvement financed by special assessments need be published only once each week for two weeks in the official newspaper with the first publication being at least fourteen days before the bid opening.

3.02.030 Open Market Purchases - Emergency

When the City governing body declares an emergency situation exists, the governing body may contract for the construction of a public improvement without seeking bids.

“Emergency situation” means a sudden generally unexpected occurrence that requires immediate action to protect public health, safety, or property and which ends when the immediate threat to public health, safety, or property ceases and services are restored. The term does not include a lack of planning on the part of the city council, architect, engineer, landscape architect, or contractor.

3.02.040 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 majority 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 3.02.060. 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. This section and sections 3.02.050 and 3.02.060 do not apply to a lease by the municipality to the state, or any agency or institution of the state, of any waterworks, mains, and water distribution system and any equipment or appliances connected therewith and any real property related thereto or any sewage system and all related property for the collection, treatment, purification, and disposal in a sanitary manner of sewage. 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.

3.02.050 Real Property Transfer Requirements

Upon resolution by the governing body of a city authorizing the public sale of real property, a notice containing a description of the property to be sold and designating the place where and the day and hour when the sale will be held shall be published in the city's official newspaper once each week for two consecutive weeks with the last publication being at least ten days in advance of the date set for the sale. The notice shall specify whether the bids are to be received at auction or as sealed bids as determined by the governing body of the city. The property advertised shall be sold to the highest bidder if that person's bid is deemed sufficient by a majority of the members of the governing body.

3.02.060 Transfer of Property by Nonexclusive Listing Agreement

As an alternative to the procedure established under section 3.02.050, the governing body of a city may by resolution describe the property of the city which is to be sold; provide a maximum rate of fee, compensation, or commission; and provide that the city reserves the right to reject any and all offers determined to be insufficient. After adoption of the resolution, the governing body of a city may engage licensed real estate brokers to attempt to sell the described property by way of nonexclusive listing agreements.

Chapter 3.08 – Sales and Use Tax

3.08.010 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.

3.08.020 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. Upon receipt of the

remittance to the City of Rolla from the tax commissioner the City shall collect its administrative fee on no more than one half of the amount received.

3.08.030 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 3.0 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 Rolla, North Dakota.

3.08.040 Use Tax Imposed

Subject to the provisions of NDCC § 40-05.1-06, and except as otherwise provided in this Ordinance of 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 Rolla, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this City, at the rate of Three percent (3%) 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 Rolla, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in the City at the rate of Three percent (3%) of the fair market value of the property at the time it was brought into this City.

3.08.050 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 Three percent (3%) 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 Three percent (3%).

3.08.060 Exemptions.

- A. In addition to the exemptions provided by state law, this Ordinance provides exemptions from imposition and computation of the city sales or use tax for sales of new farm machines, farm machine repair parts, and farm irrigation equipment; new mobile homes; gross receipts from coin operated amusements; gross receipts of coin operated vending sales of \$0.99 or less;
- B. Sales to contractors that are exempt under NDCC § 57-39.2-04(15) shall be exempt from any city sales tax, but contractors shall be subject to the city use tax on those items used within the city that would be taxed pursuant to NDCC § 57-40.2-03.3 on which the city sales tax has not previously been paid;

- C. With respect to the purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined by NDCC § 57-40.2-03.3, the tax imposed by this section applies only to bids submitted on or after June 1, 2017.

3.08.070 Maximum Tax Imposed

Any patron or user paying a tax imposed by this Ordinance in excess of Fifty Dollars (\$50.00) upon any single transaction of one or more items may obtain a refund of the excess tax payment by filing a request for refund upon the forms provided by the Tax Commissioner.

3.08.080 Contract with Tax Commissioner

The Rolla 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.

3.08.090 Dedication of Tax Proceeds

It is provided that the percentages in each category shall be reviewed annually and are subject to change by the City Council.

1. One-third (33.33%) of all revenues raised and collected under this ordinance, less administrative expenses, shall be placed in the Infrastructure Fund, to be used for Water, Sewer and street paving improvements.
2. The remaining two-thirds (66.66%) of all revenues shall be divided as follows:
 - A. Ten and One-Half percent (10.5%) of all revenues raised and collected under this ordinance, less administrative expenses, shall be expended for capital improvements and infrastructure, including but not limited to frontage roads, new streets, community buildings, swimming pools, community recreation, water treatment plant, maintenance of sewer and water systems, streets, sidewalk projects, etc. as well as for promotion of the city and community events. Distribution of these funds will be based on the recommendation of the City Sales Tax Committee and upon approval of the City Council.
 - B. Seventy-Five percent (75%) of all revenues raised and collected under this ordinance shall be placed in a Contingency Reserve Fund for capital improvements and infrastructure including but not limited to water treatment plant, maintenance of water and sewer, streets, frontage roads, sidewalk projects, etc. No administrative expenses shall be deducted from this fund.

- C. Ten and One-Half percent (10.5%) of all revenues raised and collected under this ordinance, less administrative expenses, shall be dedicated to an economic development fund. All revenue shall be maintained in the fund to be known as the Job Development Authority Fund, separate and apart from all other funds except as provided by this section. The revenue contained in such fund shall be used for community economic development projects. Proposed projects may include assisting and promoting the expansion and maintenance of our existing firms and investigating leads for the purpose of creating new business and industry in the local community. The Job Development Authority would have the responsibility of making available low interest limited loan program, which would include capped loans and loan availability only after a firm commitment from the applicant.
- D. Four percent (4%) of all revenues raised and collected under this ordinance, less administrative expenses, shall be used for promotion of the City and community events through the Rolla Chamber of Commerce. All revenues shall be maintained in a fund to be known as the City Promotion and Community Events fund. Said funds shall be disbursed to the Rolla Chamber of Commerce only, upon written request by the Chamber and approval by the City Council.

3.08.100 Saving Clause

Should any section, paragraph, sentence, clause or phrase of the ordinance be declared unconstitutional or invalid for any reason, the remainder of the ordinance shall not be affected thereby

TITLE 4 – BUSINESS REGULATIONS AND LICENSES

Chapter 4.08 – Games of Chance

4.08.010 Games of Chance Governed by N.D.C.C.

All eligible organizations conducting gaming within the city limits shall be bound by North Dakota Century Code 53-06.1.

4.08.020 Permits

An eligible organization shall apply for a permit as follows:

- a. An organization recognized as a public-spirited organization by the governing body of a city or county may apply for permits. A local permit may allow the organization to conduct only raffles, bingo, or sports pools. A restricted event permit may allow the organization to conduct only raffles, bingo, sports pools, paddlewheels, twenty-one, and poker. The organization or closely related organizations as a whole may only award a primary prize that does not exceed fifteen thousand dollars and total prizes of all games do not exceed fifty thousand dollars per year. These maximum prize amounts do not apply to raffles conducted under N.D.C.C. 20.1-08. The determination of what is a “public spirited organization” is within the sole discretion of the governing body. An organization shall disclose on the application its intended use of the net income from the gaming activity. A governing body may issue a permit for games to be held at designated times and places.
- b. An organization shall apply to the governing body of the city or county in which the proposed site is located. Application must be made on a form prescribed by the attorney general. Approval may be granted at the discretion of the governing body. A governing body may establish a fee not to exceed twenty-five dollars for each permit. A permit must be on a fiscal year basis from July first to June thirtieth or on a calendar year basis.

An eligible organization shall apply for a license to conduct only bingo, electronic quick shot bingo, raffles, Calcutta, pull tabs, punchboards, twenty-one, paddlewheels, poker, or sports pools by:

1. First securing approval for a site authorization from the governing body of the city or county in which the proposed site is located. The approved authorization must be recorded on a site authorization form that is to accompany the license application to the attorney general for final approval. An eligible organization may request a specific site location on the site authorization form.
 1. A governing body may deny a site authorization only in accordance with an ordinance or written policy adopted or amended following public comment. Under the ordinance or policy, the governing body:

- (a) May not require an eligible organization to donate net proceeds to the city, county, or related political subdivision or for community programs or services within the city or county as a condition for receiving a site authorization from the city or county;
 - (b) May not deny a site authorization solely because the eligible organization has not conducted gaming at the site;
 - (c) May not require that an eligible organization be located at a specific site or require a site to enter a lease with a specific organization as a condition of site authorization;
 - (d) May require a signed agreement between an eligible organization and a site owner before approving a site authorization. The agreement must be contingent on securing approval for the site authorization from the governing body of the city or county;
 - (e) May limit the type of games, the number of electronic pull tab devices or tables for the game of twenty-one per site, the number of sites the governing body may approve per licensed organization, and the number of sites upon which a licensed organization may conduct games within the city or county;
 - (f) May establish qualifications for an eligible organization to receive a site authorization; and
 - (g) May charge a one hundred dollar fee for a site authorization.
2. This subsection may not be construed to prohibit a governing body from:
- (a) Creating and enforcing rules that are more stringent than state law regarding charitable gaming as otherwise permitted in code; or
 - (b) Denying a site authorization for just cause, including, after consultation with the attorney general, a violation of state law or local rules.

Chapter 4.12 – Hawkers and Peddlers

4.12.010 License Required

No person shall be allowed to travel from house to house or place to place in the City for the purpose of carrying to sell, exposing for sale or selling any goods, wares or merchandise, or hawk or peddle such goods, wares or merchandise from vehicles or temporary apparatus not constituting an established place of business subject to local real or personal property taxes, unless he shall have first obtained a license as a hawker and peddler. Provided, however, that no license shall be required for peddling or vending or marketing products raised or grown on land within this State, nor shall such license be required of bona fide legal residents of this City selling services or goods therein.

4.12.020 License – How procured, amount, Mayor’s discretion

Every person desiring to obtain a license under this ordinance in this city shall in person or by his authorized agent make his application in writing to the City Auditor of said city and upon the payment to the City Auditor of such sum as the Mayor shall in his discretion direct,

which sum shall not be less than \$25.00 nor more than \$250.00, shall receive the Auditor's receipt therefore, specifying the purpose for which the same was paid and upon filing said receipts with the City Auditor, shall receive a written license, signed by the Mayor and countersigned by the City Auditor, to sell such goods, wares and merchandise as a hawker and peddler as therein specified, within the said city for such length of time as shall be fixed by the Mayor in said license, not exceeding 10 days.

Chapter 4.18 – Shows, Carnivals, and Circuses

4.18.010 License Required

No person, firm, association, or corporation shall exhibit or cause to be exhibited or assist in exhibiting any natural artificial curiosity or conduct a circus, menagerie, tent show, carnival or carnival show, continuous theatrical performance, shooting gallery or other like exhibition without first obtaining a license from the City. Any person in violation of this Chapter shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00.

Such license may be obtained from the City Auditor. The sum of not less than \$100.00 nor more than \$250.00 for each license granted shall be paid to the City Auditor. Upon payment being made as herein provided and proof of insurance, the City Auditor shall issue to the applicant a license, stating the sum paid, the purposes, and the length of time for which said license is granted.

Chapter 4.22 – Franchises

4.22.010 Non-Exclusive Franchise to Turtle Mountain Communications, Inc.

1. Purpose.

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

2. Length of Franchise.

The length of this Franchise shall be a term of Twenty (20) years from January 1, 2025 through midnight of December 31, 2044.

3. Service Area.

The Operator's service area shall be the entire incorporated are of the City of Rolla, in its present incorporated form or in any later reorganized, or enlarged, or re-incorporated form.

4. Liability and Indemnification.

Operator shall, at all times, keep in effect the following types of insurance coverage:

- a. Workforce Liability Insurance upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the City of Rolla, North Dakota.
- b. Property damage liability insurance to the extent of Two Hundred Fifty Thousand and No/100 (\$250,000.00) Dollars as to each occurrence and Two Hundred Fifty Thousand and No/100 (\$250,000.00) Dollars aggregate, and personal injury insurance to the extent of Five Hundred Thousand and No/100 (\$500,000.00) Dollars as to each occurrence and Five Hundred Thousand and No/100 (\$500,000.00) Dollars aggregate. Excess bodily insurance and property damage of One Million and No/100 (\$1,000,000.00) Dollars each occurrence and One Million and No/100 (\$1,000,000.00) Dollars aggregate. Automobile, bodily injury and property damage liability combined of One Million and No/100 (\$1,000,000.00) Dollars each occurrence.

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

5. Technical Standards.

Operator shall be governed by technical standards established by the Federal Communications Commission.

6. Operation and Maintenance of System.

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

- d. The Operator shall obtain a building permit as provided by the City before commencing any construction upgrade or extension of the System. The Operator shall impose no permit fee upon the City. The city auditor shall have the authority to sign the building permit immediately upon submission.
- e. Any property of Operator to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Operator, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property. Said City approvals shall be obtained at a City Council Regular Meeting.

7. Emergency Use of Facilities.

In the case of an emergency or disaster, the Operator shall, upon request of the City, make available its facilities to the City for emergency use during the emergency or disaster.

8. Successors or Assigns.

This Franchise shall be binding upon the Operator, its successors, and assigns.

9. Acceptance.

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

10. Effective Date.

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

11. Severability.

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

12. Notice.

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

CITY:

City Auditor

City of Rolla
PO Box 1200
Rolla, ND 58367-1200
OPERATOR:
Turtle Mountain Communications, Inc.
411 7th Ave
Langdon, ND 58249

13. Payment to the City

During the term of the rights granted hereunder, and so long as the Operator operates said system, the Operator shall pay, as compensation to the City a sum equal to three percent (3%) of the annual total gross receipts of its video services within the City of Rolla. "Gross Receipts" shall consist of those revenues derived from the monthly service charges paid by subscribers for the noted services. Gross receipts shall not include revenues received, for telephone services, installation charges, and fees for reconnections, inspections, repairs or modifications of any installation, or State and Federal taxes relating thereto.

The payments that Operator makes to the City shall be in lieu of any occupation tax, license tax, or similar levy by the City and shall be paid on a monthly basis based on the preceding years gross receipts. Upon completion of Operator's audit, Operator shall pay to the City within 15 days, the balance due, if any, for the operating year covered by the audit.

This amount payable by the Operator to the City shall be the sole amount payable for all of its rights under this Ordinance including, but not limited to, the use of the streets and other facilities of the City in the Operation of Operators systems and for the municipal supervision thereof and shall be in lieu of any other occupational tax.

Notwithstanding the annual gross receipts fee or tax payable hereunder, if the Operator is legally obligated to collect or pay any sales tax or other taxes, the Operator shall have the right to charge the subscribers an additional amount equal to such tax.

14. Rates.

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

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

In the event that the City has the authority to regulate the rates, the following procedure shall be used:

- a. Before making any changes in the rates and charges to subscribers for the Operator's communications services, Operator shall file in writing with the City a new proposed rate change at least thirty (30) days in advance of the proposed effective date for such rate change. If the City takes no action to set the proposed rate change for hearing; said proposed rate change shall become effective upon the expiration of the thirty (30) days notice.

- b. If the City wishes to hold a hearing on the proposed rate change, the hearing shall be held within forty-five (45) days of the filing of the proposed rate change by Operator. Following the hearing, the City shall take final action on the proposed rate change within thirty (30) days.

15. City's Right to Revoke.

City reserves the right to revoke, terminate or cancel a Franchise, if it is determined that an Operator has violated any material provision of its Franchise or this Ordinance and has failed to substantially cure said violation within 10 days of notification of said violation.

4.22.020 Non-Exclusive Franchise to Midcontinent Communications

1. Purpose

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

2. Length of Franchise

The length of this Franchise shall be for a term through midnight of December 31, 2034

3. Service Area

The Grantee's service area shall be the entire area of the City of Rolla, in its present form or in any later reorganized, or enlarged, or re-incorporated form.

4. Liability and Indemnification

Grantee shall, at all times, keep in effect the following types of insurance coverage:

- a. Workforce Liability Insurance upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the City of Rolla, North Dakota.
- b. Property damage liability insurance to the extent of Two Hundred Fifty Thousand and No/100 (\$250,000.00) Dollars as to each occurrence and Two Hundred Fifty Thousand and No/100 (\$250,000.00) Dollars aggregate, and personal injury insurance to the extent of Five Hundred Thousand and No/100 (\$500,000.00) Dollars aggregate. Excess bodily injury and property damage of One Million and No/100 (\$1,000,000.00) Dollars each

occurrence and One Million and No/100 (\$1,000,000.00) Dollars aggregate. Automobile, bodily injury, and property damage liability combined of One Million and No/100 (\$1,000,000.00) Dollars each occurrence.

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

5. Technical Standards

Grantee shall be governed by technical standards established by the Federal Communications Commission.

6. Operation and Maintenance of System

- a. The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest possible time. Such interruptions in so far as possible shall be preceded by notice and shall occur during periods of minimum use of the system, if possible.
- b. All service requests and complaints should be responded to within forty-eight (48) hours of receipt.
- c. If at any time the Grantor, acting through its City board, shall deem it necessary to make any improvements or changes on all or any part of the right of way of the City road which affect a utility located on City right of way, then and in such event, the Grantee shall within 15 days after written notice from the Mayor or auditor, proceed to alter, change, vacate or remove said utility from the City right of way so as to conform to said City roadway changes and as directed by the City Mayor. Such work shall be done without any cost whatsoever to the Grantor and shall be completed within the date specified in said written notice.
- d. The Grantee shall obtain a building permit as provided by the Grantor before commencing any construction upgrade or extension of the System. The Grantor shall impose no permit fee upon the Grantee. The city auditor shall have the authority to sign the building permit immediately upon submission.
- e. Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property. Said City approvals shall be obtained at a City Council Regular Meeting.

7. Emergency Use of Facilities.

In the case of an emergency or disaster, the Grantee shall, upon request of the Grantor, make available its facilities to the Grantor for emergency use during the emergency or disaster.

8. Successors or Assigns.

This Franchise shall be binding upon the Grantee, its successors, and assigns.

9. Acceptance

This grant of Franchise and its terms and provisions shall be accepted by the Grantee by the submission of a written instrument, executed and sworn by a corporate officer of the Grantee before a Notary Public, and filed with the Grantor within sixty (60) days after the effective date of this Franchise.

10. Effective Date

This Ordinance shall take effect five (5) days from the date of publication and adoption by the Grantor. The Franchise granted by this Ordinance shall not be effective until the Grantee files written acceptance thereof.

11. Severability

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

12. Notice

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

GRANTOR:

City of Rolla
City Auditor's Office
PO Box 1200
14 First St SE
Rolla, ND 58367-1200

GRANTEE:

Midcontinent Communications
Attn: VP of Legal and General Counsel
4020 W Cayman Street
Sioux Falls, SD 57107
Email: notices@midco.com

13. Franchise Fee

During the term of the rights granted herein, the Grantee shall pay as compensation to the Grantor a sum (Franchise Fee) equal to three percent (3%) of the total Gross Receipts for Grantee's video services. "Gross Receipts" shall consist of those revenues derived from the

monthly service charges paid by subscribers living within the corporate limits of the City for video programming services and premium pay services such as HBO. Gross Receipts shall not include revenues received from installation charges, or fees for reconnections, inspections, repairs or modifications, of any installation, equipment rental, or State and Federal taxes relating thereto.

The Franchise Fee shall be payable monthly, within thirty days of the end of each of the Grantee's fiscal month

14. Rates

Grantee shall at all times maintain a website with a schedule setting forth rates and charges to be made to subscribers for basic cable service, including installation charges.

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

In the event that the Grantor has the authority to regulate the rates, the following procedure shall be used:

- a. Before making any change in the rates and charges to subscribers for the Grantee's communications services, Grantee shall file in writing with the Grantor a new proposed rate change at least thirty (30) days in advance of the proposed effective date for such rate change. If the Grantor takes no action to set the proposed rate change for hearing, said proposed rate change shall become effective upon the expiration of the thirty (30) days notice.
- b. If the Grantor wishes to hold a hearing on the proposed rate change, the hearing shall be held within forty-five (45) days of the filing of the proposed rate change by Grantee. Following the hearing, the Grantor shall take final action on the proposed rate change within thirty (30) days.

15. Grantor's Right to Revoke.

Grantor reserves the right to revoke, terminate or cancel a Franchise, if it is determined that a Grantee has violated any material provision of its Franchise or this Ordinance and has failed to substantially cure said violation within 10 days of notification of said violation.

4.22.030 Non-Exclusive Franchise to Otter Tail Corporation

1. There is hereby granted to Otter Tail Corporation, a Minnesota Corporation, its successors and assigns, hereinafter called the Grantee, for a period of twenty (20) years, expiration on October 3, 2025, and during all of said time, subject to the conditions and requirements hereinafter set forth, permission to construct, install and maintain an electric light and power system and transmission lines and to operate and maintain the same within and through the City and to transmit electricity to and from other towns or cities

for the purpose of light, power and heat and to erect, construct, install and maintain conduits, poles, wires, pipes and other necessary fixtures and attachments upon and under the streets, alleys, bridges and public grounds of said City for the purpose of furnishing and selling electricity for light, heat and power and such other purposes for which electricity may be used by the inhabitants of said City, said permission and franchise to become operative and continue under the conditions hereinafter set forth.

2. Said Grantee shall use poles, wires, crossarms, equipment and devices to conform with the standards of construction adopted by the National Electrical Safety Code of the United States, Department of Commerce, and all apparatus connected therewith shall be located so as not to obstruct the avenues, streets, and alleys of said City or to endanger persons or property or to hinder or to obstruct the use of said avenues, streets, and alleys for public places by the inhabitants of said City, or public in general, or to interfere with any street, sidewalk, curb, gutter or park improvements that the City may deem proper to make along the lines of said avenues, streets and public places.
3. All conduits, poles, wires and pipes installed by virtue of this Ordinance shall be installed in such places and in such manner as not to unnecessarily encroach upon streets, alleys, bridges, or public grounds of said City, and so as not to unnecessarily obstruct the use thereof for the ordinary purpose of travel thereon, and the erection thereof shall be subject to the reasonable supervision and direction of the City Council of the said City. Whenever practicable, all poles shall be set in alleys, and poles now in position upon or along the streets, whenever practicable, shall be removed, and the locations of all of said poles shall be designated by the Mayor under the supervision of the City Council of the said City.
4. All poles where set in alleys shall be set at or near the boundary line thereof, and where set in streets shall be located at such distances, as shall be directed by the city, from the property line of the abutting owner, and shall be placed so as not to interfere with the construction of placing of any waterpipes, sewers, or drains or the flow of water therefrom which have been or may be placed by authority of said City. In the event that said Grantee shall make any unnecessary obstruction of said streets, alleys, public grounds or places not designated by the City Council, the City may cause the removal of such obstructions and charge and collect from such Grantee the actual cost of such removals.
5. During the construction, maintenance or enlargement of any part of said electric light and power system, said Grantee shall not unnecessarily impede or block travel in said streets and highways in said city, and shall leave all streets, highways, alleys, sidewalks, curbs, lanes and public places and all grounds disturbed by said construction in good condition upon the completion of said work.
6. The City reserves the right for itself and its agents to make and adopt, and the rights and privileges hereby granted shall at all times be and remain subject to such reasonable regulations of a police nature as it may deem necessary for the best interests of the City but the City will not by any such regulations or by acts of its own or agents do anything to

prevent or interfere with the Grantee carrying on its business in accordance with the franchise hereby granted.

7. Whenever the said Grantee in erecting, constructing and maintaining said lines or poles, shall take up any of the pavements, sidewalks crossings or curbs on any of the avenues, streets and alleys or public places in said City or shall make any excavations thereon; such excavations shall be refilled and the sidewalk, crossing or curb replaced under the direction of the said City and any excavation so made shall be properly lighted at night during the construction. and in case of the failure to do so on the part of the said Grantee, then the said City may do the same at the expense of said Grantee and said Grantee agrees to pay said City for the reasonable cost or value of said work, Said Grantee shall be liable for all loss or damage caused by the negligence of Grantee, which may result to persons or property within the said City, caused by it, or its agents, servants, or employees in erecting, operating and maintaining the said electric system within said City, and shall at all times save the City harmless from any and all damages to persons or property in erecting, operating or maintaining said electric system.
8. There is granted to said Grantee, its successors and assigns, during the term hereof, permission and authority to trim all trees in alleys. streets and public grounds of said City so as to remove all parts of said trees interfering with the proper erection maintenance and operation of poles, cables, wires, masts or other fixtures, or appliances installed or to be installed pursuant to authority hereby granted.
9. Said Grantee shall have full right and authority to assign any person, persons, firm or corporation all the rights that are given it by this Ordinance. provided that the assignee of such rights by accepting such assignment shall become subject to the terms and conditions of this Ordinance.
10. The Grantee shall use due diligence and care, in furnishing electric service as herein provided but shall not be liable for any loss or damage which may arise from failure of the service, either, partial or total, but this shall not be construed to exempt said Grantee from liability for negligence.
11. The rates to be charged by said Grantee in the said City shall be filed with the Public Service Commission of the State of North Dakota. and no increase or decrease in said rates shall be made except in accordance with the rules and regulations of the Public Service Commission.
12. This contract shall be subject to any present or future laws of a regulatory nature enacted by the State of North Dakota, or on any amendment or addition to such laws and further shall be subject to the rules and regulations laid down by the Public Service Commission of the State of North Dakota.
13. The City reserves the right during the term hereof to enact and assess a franchise fee such as it deems necessary, upon reasonable advance notice to Grantee of not less than thirty (30) days.

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

TITLE 6 – ANIMALS

Chapter 6.04 – Dogs and Cats

6.04.010 Definitions.

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

1. “Dog” means both male and female;
2. “Cat” means both male and female;
3. “Owner” means any person or persons, firm, association, or corporation owning, keeping, or harboring a dog or cat;
4. “At large” means off the premises of the owner and not under the control of the owner by leash, cord or chain.

6.04.020 License required – Fees.

All dogs and cats kept, harbored or maintained by their owners in the city shall be licensed if over six months of age. Dog and cat licenses shall be issued by the city auditor. The owner shall pay a license fee as established from time to time by resolution of the city council. The owner shall state at the time of registration upon printed forms provided for such purpose, their name, address, telephone number, the breed, color and sex of the animal, and the date of its last rabies inoculation and rabies tag number. No license or renewal of license shall be acceptable unless a certificate signed by a qualified veterinarian or other individual licensed to administer vaccinations is filed with the application, showing that the animal described in the application has been inoculated but shall not apply to dogs or cats brought into the city for participation in shows. The license herein provided for shall be in force regardless of the date of its issuance until the first day of January each year. Licenses may be issued for only a portion of a year depending on expiration of the rabies certificate. If a license fee as established from time to time by resolution of the city council sets fees based on whether a dog or cat is spayed or neutered, the burden of establishing such spay or neuter shall be upon the owner and the owner shall furnish evidence to the city auditor in the form of a certificate of a veterinarian or personal affidavit at the time the application is applied for.

6.04.021 Permit – When Issued

The chief of police shall have discretion as to whether or not a license is issued pursuant to 6.04.020. If the chief of police shall refuse to issue a permit, the decision may be appealed to the City governing body.

6.04.022 Failure to reinstate license.

Dog and cat licenses as provided for in 6.04.020 shall become due upon the 1st day of January in each year and shall become delinquent on the 1st day of February in each year, and if not paid before the 1st day of February a penalty of \$50.00 shall be added to the license for the first thirty days of such delinquency and an additional \$5.00 for each day of delinquency thereafter. Said licenses shall be paid and tags delivered by the city auditor in the City Hall.

6.04.030 Tag.

Upon the animal's licensing and compliance with the provisions in this chapter, the city auditor shall issue to the owner a tag, which shall be evidence of such license. The tag shall have stamped thereon the year for which it is issued and a number. Every owner shall cause the dog or cat to wear around its neck a collar to which the metal tag shall be securely fastened. In case a tag is lost or destroyed, a duplicate may be issued and the owner shall pay a replacement fee as established from time to time by resolution of the city council. Tags shall not be transferable from one animal to another.

6.04.040 Running at large.

- A. Any licensed or unlicensed dog or cat running at large within the City, or any dog or cat within the City not wearing a collar and city issued license tag, or any dog or cat not vaccinated for rabies, is hereby defined as a "dog or cat running at large."
- B. If a dog or cat is found running at large within the city by a police officer, city employee, or city resident a city police officer or city employee shall take up such animal and
 - 1. If the authorized individual has actual notice of the identity of the owner, or if the dog or cat is wearing a city issued license tag, he or she shall deliver the dog to the owner and assess a fine of a \$25.00 for a first offense, \$50.00 fee for a second offense within 12 months, or \$100.00 fee for a third offense within 12 months, plus any delinquent dog license fee. If the owner refuses to pay such fees, the authorized individual may impound the animal at the City dog pound, or such other place as may be designated by the governing body. The dog or cat shall not be released to any person until such dog or cat is licensed, a fee of \$50.00 is paid for the taking of each animal, and all pound charges are paid directly to the facility where the dog or cat is housed. If the owner fails to pay the charges and claim the animal within three days of notification the animal may be destroyed. Any person so fined may appeal to the Municipal Judge within 10 days of making such payment, whereupon the Municipal Judge shall make a determination thereof. OR
 - 2. If the owner is unknown, the chief of police shall give public notice of the taking of the animal before it is destroyed or otherwise disposed of.

6.04.050 Dogs and cats declared to be a nuisance.

Any dog or cat within the city is a public nuisance if such dog or cat:

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

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

6.04.050 Rabies.

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

6.04.060 Keeping a rabid dog or cat – Failure to report.

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

6.04.070 Limitation of number of animals.

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

Chapter 6.08 – Control and Inspection

6.08.010 Keeping of certain animals prohibited.

No person shall keep horses, mules, cattle, sheep, goats, fowl, livestock, swine, rabbits, skunks, or other animals common to the wild, within the city; however, this section shall not be deemed to apply to saddle horses being ridden or lead in a parade or other ceremony, public sanctioned event, or theatrical production.

6.08.020 Keeping of certain animals allowed.

It shall be lawful for any resident to keep up to four hen chickens. No roosters will be allowed. The hen chickens shall be kept in the resident's back yard or such part of the yard that is fenced in. This shall apply to residential neighborhoods only.

6.08.030 Keeping of Pit Bull Dogs

It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Rolla, North Dakota a pit bull dog.

Pit bull dog is define to mean:

1. The bull terrier breed of dog;
2. Staffordshire bull terrier breed of dog;
3. The American pit bull terrier breed of dog;
4. The American Staffordshire terrier breed of dog;
5. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs, or pit bull terriers;
6. Any dog which has the appearance and characteristics of being predominantly of the breed of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.

Any person violating or permitting the violation of any provision of this ordinance shall upon conviction in Municipal Court be fined a sum not more than \$500.00. The court shall order the dog be removed from the City limits immediately. Should the defendant refuse to remove the dog from the City the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance. If the owner fails to pay the charges and make arrangements for removal of the animal from the City limits within three days of conviction, the animal may be destroyed.

6.08.040 Penalty

Any person who violates the provisions of this article for which a specific penalty is not otherwise provided shall be guilty of an infraction for which the maximum penalty is a fine of five hundred dollars (\$500.00).

TITLE 8 – INTOXICATING LIQUOR

Chapter 8.01 – 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 10 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.

12. "Sparkling wine" means wine made effervescent with carbon dioxide.

13. "Wine" means the alcoholic beverage obtained by fermentation of agriculture products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume

Chapter 8.03 - 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.

Chapter 8.05 - Licenses

8.05.010 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.

8.05.030 Classes of Licenses & Fees

The fees for each class of license shall be as set forth in the Fees and Rates Resolution.

1. On and Off Sale Beer & Liquor License
2. Off Sale Beer & Liquor License
3. On Sale Beer & Wine License
4. Club License

8.05.050 Terms of License

1. All licenses issued hereunder shall be for a period of not more than one (1) year and shall expire on the 30th day of June in each year. Where a license is granted for a period less than one (1) year, any subsequent renewal thereof must be made for the full annual term.
2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees for said license shall be proportional to represent the number of days which said license will be in effect.

8.05.070 Qualifications for License

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. The 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.

8.05.090 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. Whether there are any delinquent taxes against the premises sought to be licensed.
5. 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.
6. 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.
7. 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.
8. Whether the applicant has ever been convicted of any other crime than stated in subsections (6) and (7) 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.
9. The classification of license applied for.
10. 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.
11. 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.

8.05.110 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.

8.05.130 Location of License

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.

8.05.150 Granting of License

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 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.

8.05.170 Limit to One Location

Each license shall be valid only for the specific premises licensed except in the case of an event permit.

8.05.190 Posting of License

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

8.05.210 Transfer of License

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.

8.05.230 Disposition of License Fees

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

8.05.250 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.
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 ordinance 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.

8.05.270 Event Permit

1. The governing body of the city may by special permit authorize a qualified alcoholic beverage licensee to engage in the sale of alcoholic beverages at special events designated by the permit. A "qualified alcoholic beverage licensee" shall mean a holder of a license pursuant to this article. The permit may not be valid for a period greater than fourteen consecutive days and may include Sundays. The permit may be issued for a location other than the primary place of business of the license holder. The qualified alcoholic beverage licensee shall be able to operate the original licensed location and event licensed location at the same time.
2. An application for a special permit must be filed by a licensee with the city auditor. The application shall contain the following:
 - a. The name of the licensee;
 - b. The type of event for which the permit is desired;
 - c. The dates and times for which the permit is desired;
 - d. Whether the permit is requested for the sale of all alcoholic beverages, beer, wine, sparkling wine or any combination thereof;
 - e. The specific location at which the event will take place, including a diagram of the area to be licensed and specifically identifying where persons under twenty-one years of age may be present.
3. Applications submitted pursuant to this section must be submitted at least thirty (30) days prior to the first day of the event; however, the city governing body may, at its discretion, waive the thirty (30) day requirement.
4. The permit may authorize persons under twenty-one years of age to remain in the areas of the event, or a portion thereof, where beer, wine, or sparkling wine may be sold pursuant to the permit. However, this authorization is subject to the following conditions:
 - a. The area where persons under 21 years of age may remain must be specifically set forth in the permit.

- b. Only employees of the qualified alcoholic beverage licensee who are at least twenty-one years of age may deliver and sell the beer, wine, or sparkling wine.
 - c. No person under twenty-one years of age within the area described in the permit may consume, possess or receive alcoholic beverages.
5. The fee for an event permit shall be established, and may be revised, by resolution enacted by the city governing body.

Chapter 8.07 - Hours and Time of Sale - Penalty

8.07.010 Time of Sale

Anyone who dispenses or permits the consumption of alcoholic beverages on a licensed premises between two a.m. and eleven a.m. on Sundays, between the hours of two 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 two a.m. on Thanksgiving Day or between two a.m. and noon on Sundays, is guilty of a class A misdemeanor and possible suspension or revocation of license.

Any owner, operator or employee of an establishment licensed to sell alcoholic beverages, who knowingly permits and allows a person to remain in the licensed premises after closing hours, is guilty of an offense unless the person so remaining is regularly employed in janitorial, bookkeeping, repair, construction, or redecorating work and remains in the establishment only for the purpose of such work. Any person violating this provision shall, upon conviction, be punished by a fine of up to five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the court; the court to have the power to suspend such sentence and revoke the suspension thereof and possible suspension or revocation of license and possible suspension or revocation of license.

Chapter 8.09 - Licensee's Responsibility

8.09.010 Licensee 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.

Chapter 8.11 – Prohibitions

8.11.010 Gambling Prohibited - Exceptions

No licensee hereunder shall be permitted to have or maintain on the licensed premises any gambling device, slot machine, punch board or any other machine or device of similar nature, nor shall gambling whether by cards, dice or otherwise, of any nature, be permitted upon the licensed premises. Any violation of this section shall be sufficient cause for the revocation of

the license issued hereunder. This section shall not apply to gambling or games of chance conducted by a licensee under the authority of a valid and subsisting permit issued by the City governing body or license issued by the State of North Dakota.

8.11.030 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.

8.11.050 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.

8.11.070 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.

An individual under twenty-one years of age may enter and remain on a licensed premise while alcohol is being sold or displayed at the discretion of the owner of the licensed premises, if:

1. The individual is accompanied by a parent or guardian who is twenty-one years of age or older. For purposes of this section, "guardian" means an individual who has the legal responsibility for the health and well-being of the individual under twenty-one years of age;
2. The individual is on the premises to consume a meal or in an emergency situation;
3. The premise serves at a tabletop, food that is prepared in a kitchen with at least an indoor grill;
4. The individual is not on the licensed premises after ten p.m.; and
5. The owner of the licensed premises receives permission of the city governing body for individuals to be on the premises as allowed under this section and the licensed premises is located in a city with a population of one thousand five hundred or fewer people.

An individual under twenty-one years of age may enter and remain on a licensed premise while alcohol is being sold or displayed if the individual enters the premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority. City Council shall have the authority to set the rules and parameters for such entrance.

8.11.090 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 class B misdemeanor.

8.11.110 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 a legally obtained event permit.

8.11.130 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.

8.11.150 Off Licensed Premises Deliveries

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. This section shall not apply to any direct shippers licensed by the State of North Dakota and sending deliveries by commercial carriers to residents of the city pursuant to a valid state license.

Chapter 8.13 - Premises

8.13.010 Equipment of Premises

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

8.13.030 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.

8.13.050 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.

Chapter 8.15 – Penalties

8.15.010 Penalty

Any person who violates any provision of this chapter, or any rule adopted to implement this chapter is guilty of a class B misdemeanor, unless the penalty is provided for elsewhere.

TITLE 9 – PUBLIC PEACE, SAFETY, AND MORALS

Chapter 9.01 – Purpose, Definitions, and Retroactivity

9.01.010 General purposes.

The general purposes of this title are to establish a system of prohibitions, penalties, and correctional measures to deal with conduct that unjustifiably and inexcusably causes or threatens harm to those individual or public interests for which governmental protection is appropriate. To this end, the provisions of this title are intended, and shall be construed, to achieve the following objectives:

1. To ensure the public safety through: a. vindication of public norms by the imposition of merited punishment; b. the deterrent influence of the penalties hereinafter provided; c. the rehabilitation of those convicted of violations of this title; and d. such confinement as may be necessary to prevent likely recurrence of serious criminal behavior.
2. By definition and grading of offenses, to define the limits and systematize the exercise of discretion in punishment and to give fair warning of what is prohibited and of the consequences of violation.
3. To prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities among individual offenders.
4. To safeguard conduct that is without guilt from condemnation as criminal and to condemn conduct that is with guilt as criminal.
5. To prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.
6. To define the scope of state interest in law enforcement against specific offenses and to systematize the exercise of state criminal jurisdiction.

9.01.020 Retroactivity.

1. This title, except as provided in subsection 2, shall not apply to offenses committed prior to its effective date. Prosecutions for such offenses shall be governed by prior law, which is continued in effect for that purpose. For the purposes of this section, an offense was committed prior to the effective date of this title if any of the elements of the offense occurred prior thereto.
2. In cases pending on or after the effective date of this title, and involving offenses committed prior thereto:
 - a. The provisions of this title according a defense or mitigation shall apply, with the consent of the defendant.
 - b. The court, with the consent of the defendant, may impose sentence under the provisions of this title which are applicable to the offense and the offender.

9.01.030 General definitions.

As used in this title, unless a different meaning plainly is required:

1. “Act” or “action” means a bodily movement, whether voluntary or involuntary.
2. “Acted”, “acts”, and “actions” include, where relevant, “omitted to act” and “omissions to act”.
3. “Actor” includes, where relevant, a person guilty of an omission.
4. “Bodily injury” means any impairment of physical condition, including physical pain.
5. “Class B Misdemeanor” means a person shall be subject to the maximum penalties as stated in N.D.C.C. Chapter 12.1-32-01 for a Class B Misdemeanor.
6. “Court” means any of the following courts: the supreme court, a district court, and where relevant, a municipal court.
7. “Dangerous weapon” includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, or dagger; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slingshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance.
8. “Destructive device” means any explosive, incendiary or poison gas bomb, grenade, mine, rocket, missile, or similar device.
9. “Explosive” means gunpowder, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powders, and any chemical compounds, mechanical mixture, or other ingredients in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, or material, or any part thereof may cause an explosion.
10. “Firearm” means any weapon that will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such weapon, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.
11. “Force” means physical action.
12. “Government” means:
 - a. The government of this state or any political subdivision of this state;
 - b. Any agency, subdivision, or department of the state or any political subdivision of the state, including the executive, legislative, and judicial branches;
 - c. Any corporation or other entity established by law to carry on any governmental function; and
 - d. Any commission, corporation, or agency established by statute, compact, or contract between or among governments for the execution of intergovernmental programs.
13. “Governmental function” includes any activity that one or more public servants are legally authorized to undertake on behalf of government.
14. “Harm” means loss, disadvantage, or injury to the person affected, and includes loss, disadvantage, or injury to any other person in whose welfare the person affected is interested.
15. “Included offense” means an offense:

- a. That is established by proof of the same or less than all the facts required to establish commission of the offense charged;
 - b. That consists of criminal facilitation of or an attempt or solicitation to commit the offense charged; or
 - c. That differed from the offense charged only in that it constitutes a less serious harm or risk of harm to the same person, property, or public interest, or because a lesser degree of culpability suffices to establish its commission.
16. "Includes" should be read as if the phrase "but is not limited to" were also set forth.
 17. "Infraction." A person who is guilty of an infraction shall be subject to the maximum penalties as stated in N.D.C.C. Chapter 12.1-32-01, Subsection 7.
 18. "Law enforcement officer" or "peace officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.
 19. "Local" means of or pertaining to any political subdivision of the state.
 20. "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable individual, with due consideration of the totality of circumstances.
 21. Property is that "of another" if anyone other than the actor has a possessory or proprietary interest therein.
 22. "Offense" means conduct for which a term of imprisonment or a fine is authorized by statute as a Class B Misdemeanor. A person who is guilty of an offense shall be subject to the maximum penalties as stated in N.D.C.C. for a Class B Misdemeanor.
 23. "Official action" includes a decision, opinion, recommendation, vote, or other exercise of discretion by any government agency.
 24. "Official detention" means arrest, custody following surrender in lieu of arrest, detention in any facility for custody of persons under charge or conviction of an offense or alleged or found to be delinquent, detention under a law authorizing civil commitment in lieu of criminal proceedings or authorizing such detention while criminal proceedings are held in abeyance, detention for extradition, home detention as authorized by N.D.C.C. 12-67, or custody for purposes incident to the foregoing, including transportation, medical diagnosis or treatment, court appearances, work, and recreation, or being absent without permission from any release granted while under custody of a sentence such as work or education release, community confinement, or other temporary leaves from a correctional or placement facility. "Official detention" does not include supervision on probation or parole or constraint incidental to release.
 25. "Official proceeding" means a proceeding heard or which may be heard before any government agency or branch or public servant authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with any such proceeding
 26. "Omission" means a failure to act.
 27. As used in this title and in sections outside this title which define offenses, "person" includes, where relevant, a corporation, limited liability company, partnership, unincorporated association, or other legal entity. When used to designate a party whose property may be the subject of action constituting an offense, the word "person" includes a government that may lawfully own property in this state.

28. "Political subdivision" as used in this title and in any statute outside this title which defines an offense means a county, city, school district, township, and any other local governmental entity created by law.
29. "Possesses" means an individual has:
 - a. Direct physical control of something on or around the individual's person; or
 - b. The power and intention to exercise control over something accessible to but not on or around the individual's person.
30. "Public servant" as used in this title and in any statute outside this title which defines an offense means any officer or employee of government, including law enforcement officers, whether elected or appointed, and any person participating in the performance of a governmental function. The term does not include witnesses.
31. "Serious bodily injury" means bodily injury that creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, permanent loss or impairment of the function of any bodily member or organ, a bone fracture, or impediment of air flow or blood flow to the brain or lungs.
32. "Signature" includes any name, mark, or sign written or affixed with intent to authenticate any instrument or writing.
33. "Thing of value" or "thing of pecuniary value" means a thing of value in the form of money, tangible or intangible property, commercial interests, or anything else the primary significance of which is economic gain to the recipient.

Chapter 9.04 – Offenses of General Applicability

9.04.010 Criminal attempt.

1. A person is guilty of criminal attempt if, acting with the kind of culpability otherwise required for commission of a crime, he intentionally engages in conduct which, in fact, constitutes a substantial step toward commission of the crime. A "substantial step" is any conduct which is strongly corroborative of the firmness of the actor's intent to complete the commission of the crime. Factual or legal impossibility of committing the crime is not a defense, if the crime could have been committed had the attendant circumstances been as the actor believed them to be.
2. A person who engages in conduct intending to aid another to commit a crime is guilty of criminal attempt if the conduct would establish his complicity under N.D.C.C. section 12.1-03-01 were the crime committed by the other person, even if the other is not guilty of committing or attempting the crime, for example, because he has a defense of justification or entrapment.
3. Criminal attempt is an offense of the same class as the offense attempted.

9.04.020 Criminal conspiracy.

1. A person commits conspiracy if he agrees with one or more persons to engage in or cause conduct which, in fact, constitutes an offense or offenses proscribed by the ordinances of this city, and any one or more of such persons does an overt act to effect an objective of the conspiracy. The agreement or overt act must occur within the city. The agreement need not be explicit but may be implicit in the fact of collaboration or existence of other circumstances.

2. If a person knows or could expect that one with whom he agrees has agreed or will agree with another to effect the same objective, he shall be deemed to have agreed with the other, whether or not he knows the other's identity.
3. A conspiracy shall be deemed to continue until its objectives are accomplished, frustrated, or abandoned. "Objectives" includes escape from the scene of the crime, distribution of booty, and measures, other than silence, for concealing the crime or obstructing justice in relation to it. A conspiracy shall be deemed abandoned if no overt act to effect its objectives has been committed by any conspirator during the applicable period of limitations.
4. It is no defense to a prosecution under this section that the person with whom such person is alleged to have conspired has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense, is immune from prosecution, or is otherwise not subject to justice.
5. Accomplice liability for offenses committed in furtherance of the conspiracy is to be determined as provided in N.D.C.C. section 12.1-03-01.
6. Conspiracy shall be subject to the same penalty as that provided for the offense or offenses constituting the objective of the conspiracy.

Chapter 9.08 - Offenses Against the Integrity and Effectiveness of Law Enforcement, Judicial Proceedings, and Government Operations

9.08.010 Aiding consummation of an offense.

A person is guilty of the offense of aiding consummation of an offense against the ordinances of this city if he intentionally aids another to secrete, disguise, or convert the proceeds of the offense against the ordinances or otherwise profit from the offense.

9.08.020 Public servants permitting escape.

A public servant concerned in official detention pursuant to process issued by a court, judge, or magistrate is guilty of an offense if he negligently permits an escape.

9.08.040 Hindering proceedings by disorderly conduct.

A person is guilty of an offense if the person recklessly hinders an official proceeding by noise or violent or tumultuous behavior or disturbance.

9.08.050 Impersonating officials.

A person is guilty of an offense if he falsely pretends to be a public servant, other than a law enforcement officer, and acts as if to exercise the authority of such public servant.

9.08-080 Refusing to halt.

Any person, other than the driver of a motor vehicle fleeing police under N.D.C.C. section 39-10-71, who willfully fails or refuses to stop or who otherwise flees or attempts to

elude, in any manner, a pursuing peace officer, when given a visual or audible signal to stop, is guilty of a class B misdemeanor for a first or second offense. Any subsequent offense is a class A misdemeanor and not controlled by City Ordinance. A signal to stop complies with this section if the signal is perceptible to the person and:

1. If given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the vehicle is appropriately marked showing it to be an official law enforcement vehicle; or
2. If not given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the officer is in uniform or prominently displays the officer's badge of office.

Chapter 9.12 - Discrimination and Civil Rights

9.12.010 Discrimination in public places.

A person is guilty of an offense if, whether or not acting under color of law, he, by force, or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because of his sex, race, color, religion, or national origin and because he is or has been exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.
2. Injures, intimidates, or interferes with another because of his sex, race, color, religion, or national origin in order to intimidate him or any other person from exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.

9.12.020 Preventing exercise of civil rights—Hindering or preventing another aiding third person to exercise civil rights.

A person is guilty of an offense if, whether or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because he is or is about to exercise his civil rights, or because he has exercised his civil rights.
2. Intimidates or prevents another from aiding a third person to exercise his civil rights.

Chapter 9.16 – Offenses Against Persons

9.16.010 Simple assault.

1. A person is guilty of an offense if he:
 - a. Willfully causes bodily injury to another human being; or
 - b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.
2. The offense is considered a class C felony if the victim is 1) a peace officer or correctional institution employee acting in official capacity, which the actor knows to be

a fact; 2) a person engaged in a judicial proceeding; or 3) a member of a municipal or volunteer fire department or emergency medical services personnel unit or emergency department worker in the performance of the member's duties. In this case the City Ordinance does not control.

3. When conduct is an offense because it causes or threatens bodily injury, consent to such conduct or to the infliction of such injury by all persons injured or threatened by the conduct is a defense if:
 - a. Neither the injury inflicted nor the injury threatened is such as to jeopardize life or seriously impair health;
 - b. The conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or
 - c. The conduct and the injury are reasonably foreseeable hazards of an occupation or profession or of medical or scientific experimentation conducted by recognized methods, and the persons subjected to such conduct or injury, having been made aware of the risks involved, consent to the performance of the conduct or the infliction of the injury.
4. Assent does not constitute consent, within the meaning of this ordinance, if:
 - a. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense and such incompetence is manifest or known to the actor;
 - b. It is given by a person who by reason of youth, mental disease or defect, or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
 - c. It is induced by force, duress, or deception.

9.16.020 Domestic violence.

1. For purposes of this section "family or household member" means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time.
2. A person is guilty of an offense if that person willfully causes:
 - a. Bodily injury to the actor's family or household member.
3. The offense is only a class B misdemeanor and controlled by this ordinance for a first offense.

9.16.040 Harassment.

1. A person is guilty of an offense if, with intent to frighten or harass another, the person:
 - a. Makes a telephone call anonymously or in offensively coarse language;
 - b. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; or
 - c. Communicates a falsehood in writing or by electronic communication and causes mental anguish.

2. Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received.
3. Any offense defined herein is deemed communicated in writing if it is transmitted electronically, by electronic mail, facsimile, or other similar means. Electronic communication means transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system.

9.16.080 Hazing.

A person is guilty of an offense when, in the course of another person's initiation into or affiliation with any organization, the person willfully engages in conduct that creates a substantial risk of physical injury to that other person or a third person. As used in this section, "conduct" means any treatment or forced physical activity that is likely to adversely affect the physical health or safety of that other person or a third person, or which subjects that other person or third person to extreme mental stress, and may include extended deprivation of sleep or rest or extended isolation, whipping, beating, branding, forced calisthenics, overexposure to the weather, and forced consumption of any food, liquor, beverage, drug, or other substance. The offense is a class A misdemeanor if the actor's conduct causes physical injury, otherwise the offense is a class B misdemeanor. In the case of a class A misdemeanor, the City Ordinance does not control.

Chapter 9.20 – Offenses Against Property

9.20.010 Criminal mischief.

1. A person is guilty of an offense if he:
 - a. Willfully tampers with tangible property of another so as to endanger person or property; or
 - b. Willfully damages tangible property of another.
2. Conduct is punishable as criminal mischief under this ordinance when any pecuniary loss if intentionally caused is less than one hundred dollars; if recklessly caused pecuniary loss is less than two thousand dollars; and if the damages to tangible property to another are not by means of an explosive or a destructive device.

9.20.020 Tampering with or damaging a critical infrastructure facility or a public service.

1. An individual is guilty of an offense if he negligently causes a substantial interruption or impairment of a critical infrastructure facility or a public service by:
 - a. Tampering with or damaging the tangible property of another;
 - b. Incapacitating an operator of a critical infrastructure facility or a public service;
 - c. Damaging, destroying, vandalizing, defacing, or tampering with equipment in a critical infrastructure facility;

- d. Damaging, destroying, vandalizing, defacing, impeding, inhibiting, or tampering with the operations of a critical infrastructure facility; or
 - e. Interfering, inhibiting, impeding, or preventing the construction or repair of a critical infrastructure facility.
- 2. This ordinance does not apply to an employee or contractor acting within the scope of the employee's or contractor's employment. As used in this subsection, "employee or contractor" means any person hired or under contract to provide services to a critical infrastructure facility or public service.
- 3. This section may not be construed to prevent or prohibit lawful assembly and peaceful and orderly petition for the redress of grievances, including a labor dispute between an employer and its employee.
- 4. As used in this section, "critical infrastructure facility" includes:
 - a. A petroleum or alumina refinery;
 - b. An electrical power generating facility, substation, switching station, electrical control center, or electric power line and associated equipment infrastructure;
 - c. A chemical, polymer, or rubber manufacturing facility;
 - d. A drinking water source, water transmission line, water treatment plant, water distribution system, ground water monitoring well, waste water treatment plant, or waste water collection system;
 - e. A natural gas compressor station;
 - f. A liquid natural gas terminal or storage facility;
 - g. Wireline telecommunications and internet infrastructure, including central offices, fiber optic lines, cable lines, and all additional equipment associated with the provision of broadband or telecommunication services;
 - h. Wireless telecommunications infrastructure, including a cell tower, telephone pole or line, including a fiber optic line;
 - i. A port, railroad switching yard, railroad track, trucking terminal, or other freight transportation facility;
 - j. A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or a natural gas liquid;
 - k. A transmission facility used by a federally licensed radio or television station;
 - l. A steel-making facility using an electric arc furnace to make steel;
 - m. A facility identified and regulated by the United States department of homeland security chemical facility anti-terrorism standards program;
 - n. A dam regulated by the state or federal government;
 - o. A natural gas transmission or distribution utility facility, including a pipeline interconnection, a city gate or town border station, a metering station, below or aboveground piping, a regulator station, and a natural gas storage facility;
 - p. A crude oil or refined product storage and distribution facility, including a valve site, pipeline interconnection, pump station, metering station, below or aboveground pipeline or piping, and a truck loading or offloading facility;
 - q. Any below or aboveground portion of an oil, gas, hazardous liquid, or chemical pipeline, tank, railroad facility, or other storage facility;
 - r. An oil and gas production site; and
 - s. A site or location designated or approved for the construction of a facility described in this subsection.

9.20.030 Consent as a defense.

For prosecutions of criminal mischief or tampering with or damaging a critical infrastructure facility or a public service whenever it is an element of the offense that the property is of another, it is a defense to a prosecution under those sections that the other has consented to the actor's conduct with respect to the property.

9.20.040 Tampering with, disabling, or falsely sounding a fire alarm—Tampering with or disabling fire suppression equipment.

1. A person may not tamper with, disable, or falsely sound an alarm signifying a fire in a hotel, motel, rooming house, lodging house, or other place of public abode or in any other public place so as to endanger person or property. A person does not violate this subsection if that person sounds an alarm and has a reasonable belief there is a fire endangering person or property.
2. A person may not tamper with or disable fire suppression equipment in a hotel, motel, rooming house, lodging house, or other place of abode or in any other public place so as to endanger person or property.
3. A violation of this section is an offense.

9.20.050 Negligent act resulting in fire.

It is unlawful for any person to negligently cause a fire to be started in any part of any hotel, motel, rooming house, lodging house, or other place of public abode so as to endanger life or property in any way or to any extent.

1. The state fire marshal shall print and distribute copies of this section to all hotels, motels, rooming houses, lodging houses, and other places of public abode in this state and such copies shall be conspicuously displayed in each room of every hotel, motel, rooming house, lodging house, and other place of public abode in this state.
2. Violation of this section is an offense.

9.20.120 Criminal trespass.

1. A person is guilty of an offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the person in charge of the premises or other authorized person or by posting in a manner reasonably likely to come to the attention of the intruders. The name of the person posting the premises must appear on each sign in legible characters.
2. Even if the conduct of the owner or individual authorized by the owner varies from the provisions of section 1, an individual may be found guilty of violating section 1 if the owner or individual authorized by the owner substantially complied with section 1 and notice against trespass is clear from the circumstances.

3. An individual who violates section 1 is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period. At which point the city ordinance would not control.

Chapter 9.24 – Theft and Related Offenses

9.24.010 Consolidation of theft offenses.

1. Conduct denominated theft in sections 9.24.020 to 9.24.040 constitutes a single offense designed to include the separate offenses heretofore known as larceny, stealing, purloining, embezzlement, obtaining money or property by false pretense, extortion, blackmail, fraudulent conversion, receiving stolen property, misappropriation of public funds, swindling, and the like.
2. A charge of theft under sections 9.24.020 to 9.24.040 which fairly apprises the defendant of the nature of the charges against him shall not be deemed insufficient because it fails to specify a particular category of theft. The defendant may be found guilty of theft under such a charge if his conduct falls under sections 9.24.020 to 9.24.040, so long as the conduct proved is sufficiently related to the conduct charges that the accused is not unfairly surprised by the case he must meet.

9.24.020 Theft of property.

A person is guilty of theft if he:

1. Knowingly takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with intent to deprive the owner thereof;
2. Knowingly obtains the property of another by deception or by threat with intent to deprive the owner thereof, or intentionally deprives another of his property by deception or by threat; or
3. Knowingly receives, retains, or disposes of property of another which has been stolen, with intent to deprive the owner thereof.

9.24.030 Theft of services.

A person is guilty of theft if:

1. He intentionally obtains services, known by him to be available only for compensation, by deception, threat, false token, or other means to avoid payment for the services; or
2. Having control over the disposition of services of another to which he is not entitled, he knowingly diverts those services to his own benefit or to the benefit of another not entitled thereto.

Where compensation for services is ordinarily paid immediately upon their rendition, as in the case of hotels, restaurants, and comparable establishments, absconding without payment or making provision to pay is prima facie evidence that the services were obtained by deception.

9.24.040 Theft of property lost, mislaid, or delivered by mistake.

A person is guilty of theft if he:

1. Retains or disposes of property of another when he knows it has been lost or mislaid; or
2. Retains or disposes of property of another when he knows it has been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, and with intent to deprive the owner of it, he fails to take readily available and reasonable measures to restore the property to a person entitled to have it.

9.24.050 Thefts punishable under city ordinance.

Thefts under sections 9.24.020 to 9.24.040 may be punished as an offense against the city ordinances if the highest value by any reasonable standard, regardless of the actor's knowledge of such value, of the property or services which were stolen by the actor, or which the actor believed that he was stealing, or which the actor could reasonably have anticipated to have been the property or services involved, does not exceed five hundred dollars, the theft is a first offense, and if:

1. The theft was not committed by threat;
2. The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft; and
3. The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of his official duties;
4. The property stolen is not a firearm, ammunition, explosive, or destructive device, or an automobile, aircraft, or other motor-propelled vehicle;
5. The property does not consist of any government file, record, document, or other government paper stolen from any government office or from any public servant;
6. The defendant is not in the business of buying or selling stolen property and he does not receive, retain, or dispose of the property in the course of that business;
7. The property stolen does not consist of any implement, paper, or other thing uniquely associated with the preparation of any money, stamp, bond, or other document, instrument, or obligation of the State of North Dakota;
8. The property stolen does not consist of livestock taken from the premises of the owner;
9. The property stolen does not consist of a key or other implement uniquely suited to provide access to property the theft of which would be a felony and was not stolen to gain such access;
10. The property stolen is a card, plate, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit, or is a debit card, electronic fund transfer card, code, or other means of access to an account for the purposes of initiating electronic fund transfers;
11. The property stolen is a prescription drug as defined in N.D.C.C. section 43-15.3-01, except when the quantity stolen is five or fewer capsules, pills, or tablets; OR
12. The property is stolen while engaging in a riot as defined in N.D.C.C. section 12.1-25-01 or while with an organized group of five or more individuals.

9.24.060 Misapplication of entrusted property.

1. A person is guilty of an offense if the person disposes of, uses, or transfers any interest in property that has been entrusted to the person as a fiduciary, or in the person's capacity as

a public servant or an officer, director, agent, employee of, or a person controlling a financial institution, in a manner that the person knows is not authorized and that the person knows to involve a risk of loss or detriment to the owner of the property or to the government or other person for whose benefit the property was entrusted.

2. Misapplication of entrusted property is a class B misdemeanor if the value of the property misapplied is five hundred dollars or less.

9.24.070 Theft of cable television services.

A person is guilty of an offense if the person:

1. Knowingly obtains or attempts to obtain cable television service from another by any means, artifice, trick, deception, or device without the payment to the cable television operator of all lawful compensation for each type of service obtained;
2. Knowingly assists or instructs any other person in obtaining or attempting to obtain any cable television service without the payment to the cable television operator of all lawful compensation for each type of service obtained or attempted to be obtained;
3. Knowingly tampers, diverts from, or connects to by any means, whether mechanical, electrical, acoustical or other means, any cables, wires, or other devices used for the distribution of cable television without authority from the cable television operator; or
4. Knowingly manufactures, imports into this state, distributes, sells, offers for sale or rental, possesses for sale, or advertises for sale, any device, plan or kit for a device, or printed circuit, designed to unlock, decode, descramble, or otherwise make intelligible any locked, encoded, scrambled, or other nonstandard signal carried by the cable television system, thereby facilitating the doing of any acts specified in subsections 1, 2, and 3.

9.24.120 Retail theft—Shoplifting.

1. Presumption.

Any person concealing upon his person or among his belongings, or causing to be concealed upon the person or among the belongings of another, unpurchased merchandise displayed, held, offered, or stored for sale in a mercantile establishment and removing it to a point beyond the last station for receiving payments in that retail mercantile establishment shall be prima facie presumed to have so concealed such merchandise with the intention of permanently depriving the merchant of possess or of the full retail value of such merchandise.

2. Detention of suspect – Procedure.

Any peace officer or merchant who reasonably believes that a person has committed, or is in the process of committing, theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

- a. To require the person to identify himself.
- b. To verify such identification.
- c. To determine whether such person has in his possession unpurchased merchandise, and, if so, to recover such merchandise.
- d. To inform a peace officer of the detention of the person and surrender custody of that person to a peace officer.

- e. In the case of a minor, to inform a peace officer, the parents, guardian, or other private person interested in the welfare of that minor of this detention and to surrender custody of said minor to the person informed.
- 3. Theft of unpurchased merchandise displayed, held, offered, or stored for sale in a mercantile establishment from that establishment when open for business is “shoplifting” for which the offender upon conviction shall be guilty of a Class B Misdemeanor.

9.24.150 Defenses and proof as to theft and related offenses.

- 1. It is a defense to a prosecution under sections 9.24.010 to 9.24.120 that:
 - a. The actor reasonably believed that he had a claim to the property or services involved which the actor was entitled to assert in the manner which forms the basis for the charge against him; or
 - b. The victim is the actor’s spouse, but only when the property involved constitutes household or personal effects or other property normally accessible to both spouses and the parties involved are living together. The term “spouse”, as used in this section, includes persons living together as husband and wife.
- 2. It does not constitute a defense to a prosecution for conduct constituting an offense in violation of this chapter that:
 - a. Stratagem or deception, including the use of an undercover operative or law enforcement officer, was employed;
 - b. A facility or an opportunity to engage in such conduct, including offering for sale property not stolen as if it were stolen, was provided; or
 - c. Mere solicitation that would not induce an ordinary law-abiding person to engage in such conduct was made by a law enforcement officer to gain evidence against a person predisposed to engage in such conduct.
- 3.
 - a. It shall be a prima facie case of theft under this chapter if it is shown that a public servant or an officer, director, agent, employee of, or a person connected in any capacity with a financial institution has failed to pay or account upon lawful demand for money or property entrusted to him as part of that person’s official duties or if an audit reveals a shortage or falsification of his accounts.
 - b. It shall be a prima facie case of theft under this chapter if it is shown that a person, having successfully bid on and obtained an item at an auction, removed the item from the auction premises without paying or making provisions to pay for the item.
 - c. Proof of the purchase or sale of stolen property at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.
 - d. Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.

9.24.160 Definitions for theft and related offenses.

In this chapter:

1. “Dealer in property” means a person who buys or sells property as a business.
2. “Deception” means:
 - a. Creating or reinforcing a false impression as to fact, law, status, value, intention, or other state of mind; or obtaining or attempting to obtain public assistance by concealing a material fact, making a false statement or representation, impersonating another, concealing the transfer of property without adequate consideration, or using any other fraudulent method; but deception as to a person’s intention to perform a promise may not be inferred from the fact alone that the person did not substantially perform the promise unless it is part of a continuing scheme to defraud;
 - b. Preventing another from acquiring information which would affect his judgment of a transaction;
 - c. Failing to correct a false impression which the actor previously created or reinforced, or which he knows to be influencing another to whom he stands in a fiduciary or confidential relationship;
 - d. Failing to correct an impression which the actor previously created or reinforced and which the actor knows to have become false due to subsequent events;
 - e. Failing to disclose a lien, adverse claim, or other impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained or in order to continue to deprive another of his property, whether such impediment is or is not valid, or is or is not a matter of official record;
 - f. Using a credit card, charge plate, or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer:
 - i. Where such instrument has been stolen, forged, revoked, or canceled, or where for any other reason its use by the actor is unauthorized; and
 - ii. Where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument; or
 - g. Any other scheme to defraud. The term “deception” does not, however, include falsifications as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. “Puffing” means an exaggerated commendation of wares in communications addressed to the public or to a class or group.
3. “Deprive” means:
 - a. To withhold property or to cause it to be withheld either permanently or under such circumstances that a major portion of its economic value, or its use and benefit, has, in fact, been appropriated;
 - b. To withhold property or to cause it to be withheld with the intent to restore it only upon the payment of a reward or other compensation; or
 - c. To dispose of property or use it or transfer any interest in it under circumstances that make its restoration, in fact, unlikely.
4. “Fiduciary” means a trustee, guardian, executor, administrator, receiver, or any other person acting in a fiduciary capacity, or any person carrying on fiduciary functions on

behalf of a corporation, limited liability company, or other organization which is a fiduciary.

5. "Financial institution" means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.
6. "Obtain" means
 - a. In relation to property, to bring about a transfer or purported transfer of an interest in the property, whether to the actor or another.
 - b. In relation to services, to secure performance thereof.
7. "Property" means any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents although the rights represented thereby have no physical location), contract right, chose-in-action, interest in or claim to wealth, credit, or any other article or thing of value of any kind. "Property" also means real property the location of which cannot be moved if the offense involves transfer or attempted transfer of an interest in the property.
8. "Property of another" means property in which a person other than the actor or in which a government has an interest which the actor is not privileged to infringe without consent, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person or government might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement. "Owner" means any person or a government with an interest in property such that it is "property of another" as far as the actor is concerned.
9. "Receiving" means acquiring possession, control, or title, or lending on the security of the property.
10. "Services" means labor, professional service, transportation, telephone, mail or other public service, gas, electricity and other public utility services, accommodations in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other property.
11. "Shoplifting" means to willfully take possession of any merchandise owned, held, offered, or displayed for sale, by a merchant, store, or other mercantile establishment, with the intent to deprive the owner of the merchandise. The term includes:
 - a. Removing merchandise from a store or other mercantile establishment without paying for the merchandise;
 - b. Concealing a non-purchased good or merchandise;
 - c. Altering, transferring, or removing a price marking on a good or merchandise;
 - d. Transferring a good from one container to another; and
 - e. Causing the amount paid for a good or merchandise to be less than the stated retail price.
12. "Stolen" means property which has been the subject of theft or robbery or a vehicle which is received from a person who is then in violation of section 12.1-23-06.
13. "Threat" means an expressed purpose, however communicated, to:
 - a. Cause bodily injury in the future to the person threatened or to any other person;
 - b. Cause damage to property;

- c. Subject the person threatened or any other person to physical confinement or restraint;
- d. Engage in other conduct constituting a crime;
- e. Accuse anyone of a crime;
- f. Expose a secret or publicize an asserted fact, whether true or false, tending to subject a person living or deceased, to hatred, contempt, or ridicule or to impair another's credit or business repute;
- g. Reveal any information sought to be concealed by the person threatened;
- h. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense;
- i. Take or withhold official action as a public servant, or cause a public servant to take or withhold official action;
- j. Bring about or continue a strike, boycott, or other similar collective action to obtain property or deprive another of his property which is not demanded or received for the benefit of the group which the actor purports to represent;
- k. Cause anyone to be dismissed from his employment, unless the property is demanded or obtained for lawful union purposes; or
- l. Do any other act which would not in itself substantially benefit the actor or a group he represents but which is calculated to harm another person in a substantial manner with respect to his health, safety, business, employment, calling, career, financial condition, reputation, or personal relationship.

Upon a charge of theft, the receipt of property in consideration for taking or withholding official action shall be deemed to be theft by threat regardless of whether the owner voluntarily parted with his property or himself initiated the scheme.

14. "Traffic" means:

- a. To sell, transfer, distribute, dispense, or otherwise dispose of to another person; or
- b. To buy, receive, possess, or obtain control of, with intent to sell, transfer, distribute, dispense, or otherwise dispose of to another person.

9.24.180 Duplication of keys.

- 1. Except as provided in subsection 2, no person shall duplicate or make a key from another key marked with the words "Do Not Duplicate", "Do Not Copy", or words of similar intent.
- 2. It shall be an affirmative defense to prosecution under subsection 1 that:
 - a. The person made or duplicated the key for his employer, solely for use within the employer's place of business.
 - b. The person for whom the key was made or duplicated owns the lock which the key fits.
- 3. Any person who violates any provision of this section is guilty of a class B misdemeanor.

9.24.210 Making or uttering slugs.

- 1. A person is guilty of an offense if he makes or utters a slug which does not exceed fifty dollars in value with intent to deprive a supplier of property or service sold or offered by means of a coin machine or with knowledge that he is facilitating such a deprivation by another person.

2. In this section:
 - a. “Slug” means a metal, paper, or other object which by virtue of its size, shape, or any other quality is capable of being inserted, deposited, or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill, or token.
 - b. “Coin machine” means a coin box, turnstile, vending machine, or other mechanical or electronic device or receptacle designed:
 - i. To receive a coin or bill of a certain denomination or a token made for the purpose; and
 - ii. In return for the insertion or deposit thereof, automatically to offer, provide, assist in providing, or permit the acquisition of property or a public or private service.
 - c. “Value” of the slugs means the value of the coins, bills, or tokens for which they are capable of being substituted.

Chapter 9.28 – Offenses Against Public Order, Health, Safety, and Sensibilities

9.28.010 Disorderly conduct.

1. A person is guilty of violating the ordinances of this City if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual’s behavior, he:
 - a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
 - b. Makes unreasonable noise;
 - c. In a public place, uses abusive or obscene language, knowingly exposes that individual’s penis, vulva, or anus, or makes an obscene gesture;
 - d. Obstructs vehicular or pedestrian traffic or the use of a public facility;
 - e. Persistently follows a person in or about a public place or places;
 - f. While loitering in a public place for the purpose of soliciting sexual contact, he solicits the contact;
 - g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose
 - h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person; or
 - i. Uses a fixed optical device that enhances or records a visual occurrence to view through any window of another person’s property; or uses a surveillance camera to capture an image from the dwelling or accessory structure of another person; however, an individual using a surveillance camera has seven days from notice by a law enforcement officer to direct or shield the camera so as to not capture an image from another person’s dwelling or accessory structure before there is an offense.
2. This section does not apply to constitutionally protected activity. If an individual claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.

9.28.020 Disorderly conduct at a funeral

1. For purposes of this section:
 - a. “Funeral” means the ceremonies, rituals, processions, and memorial services held at a funeral site in connection with the burial, cremation, or memorial of a deceased individual.
 - b. “Funeral site” means a church, synagogue, mosque, funeral home, mortuary, cemetery, gravesite, mausoleum, or other place at which a funeral is conducted or is scheduled to be conducted within the next hour or has been conducted within the last hour.
2. An individual is guilty of disorderly conduct at a funeral if the individual:
 - a. Engages, with knowledge of the existence of a funeral site, in any loud singing, playing of music, chanting, whistling, yelling, or noisemaking within one thousand feet [300.48 meters] of any ingress or egress of that funeral site if the volume of the singing, music, chanting, whistling, yelling, or noisemaking is likely to be audible at and disturbing to the funeral site; or
 - b. Displays, with knowledge of the existence of a funeral site and within one thousand feet [300.48 meters] of any ingress or egress of that funeral site, any visual images that convey fighting words or actual or veiled threats against any other individual.
3. Disorderly conduct at a funeral is a class B misdemeanor. A second or subsequent violation of this section is a class A misdemeanor and is not controlled by the City Ordinance.

9.28.040 Gambling.

1. Except as permitted by law, it is an infraction to engage in gambling on private premises where the total amount wagered by an individual player exceeds twenty-five dollars per individual hand, game, or event.
2. As used in this section, “gambling” means risking any money, credit, deposit, or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gambling apparatus, or the happening or outcome of an event, including an election or sporting event, over which the person taking the risk has no control. Gambling does not include:
 - a. Lawful contests of skill, speed, strength, or endurance in which awards are made only to entrants or to the owners of entries;
 - b. Lawful business transactions, or other acts or transactions now or hereafter expressly authorized by law; or
 - c. Use of gaming equipment and devices that may not otherwise be lawful in the state when the equipment or devices are used by any institution under the control of the state board of higher education which awards degrees of bachelor’s or higher for the purpose of conducting scientific research in a controlled environment on the campus of that institution.

9.28.080 Prostitution.

An adult is guilty of prostitution, a class B misdemeanor, if the adult:

1. Is an inmate of a house of prostitution or is otherwise engaged in sexual activity as a business;
2. Solicits another person with the intention of being hired to engage in sexual activity; or
3. Agrees to engage in sexual activity with another for money or other items of pecuniary value.
4. As used in this section:
 - a. A “house of prostitution” is any place where prostitution is regularly carried on by a person under the control, management, or supervision of another.
 - b. An “inmate” is a prostitute who acts as such in or through the agency of a house of prostitution.
 - c. A “prostitute” is a person who engages in sexual activity for hire.
 - d. A “prostitution business” is any business which derives funds from prostitution regularly carried on by a person under the control, management, or supervision of another.
 - e. “Sexual activity” means sexual act or sexual contact as those terms are defined in N.D.C.C. section 12.1-20-02.

9.28.090 Hiring an individual to engage in prostitution.

Except for patronizing a minor for commercial sexual activity, an individual who hires or offers or agrees to hire another individual with the intention of engaging in sexual activity is guilty of:

1. A class B misdemeanor for a first offense; and
2. A class A misdemeanor for a second or subsequent offense within ten years under which the City of Rolla Ordinances do not control.

9.28.110 Discharge of firearm within city – Penalty – Application.

A person who discharges a firearm within a city is guilty of an offense. This section does not apply to the lawful discharge of firearms by law enforcement officers, by citizens in defense of person or property, or by participants in lawful activities in which discharge of firearms is a recognized part of the activity, including shooting galleries and ranges.

9.28.120 Use of firearm by minors prohibited – Penalty.

Any parent, guardian, or other person authorized by the parent or guardian of any minor under fifteen years of age who permits that minor to carry or use any firearm of any description loaded with powder and projectile in public, is guilty of a class B misdemeanor. This section does not apply if the minor is under the direct supervision of the parent, guardian, or other person authorized by the parent or guardian.

Chapter 9.32 – Drug, Alcohol, and Tobacco Related Offenses

9.32.010 Definitions.

1. "Alcohol" means neutral spirits distilled at or above one hundred ninety degrees proof, whether or not such product is subsequently reduced, for nonindustrial use.
2. "Alcoholic beverages" means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
3. "Beer" means any malt beverage containing one-half of one percent or more of alcohol by volume and includes an alcoholic beverage made by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, or molasses, which has not undergone distillation.
4. "Bottle or can" means any container, regardless of the material from which made, having a capacity less than a bulk container for use for the sale of malt beverages at retail.
5. "Direct shipper" means a person that is licensed by the commissioner and ships or causes to be shipped alcoholic beverages directly into this state to a consumer for the consumer's personal use and not for resale.
6. "Distilled spirits" means any alcoholic beverage that is not beer, wine, sparkling wine, or alcohol.
7. "In bulk" means in containers having a capacity not less than one-sixth barrel for use for the sale of malt beverages at retail.
8. "Licensed alcohol carrier" means a person licensed to transport or deliver alcoholic beverages to a consumer without first having the alcoholic beverage delivered through a wholesaler licensed in this state.
9. "Licensed logistics shipper" means a person that provides fulfillment house services, including warehousing, packaging, distribution, order processing, or shipment of alcoholic beverages on behalf of a licensed direct shipper and by way of a licensed alcohol carrier.
10. "Licensed premises" means the premises on which beer, liquor, or alcoholic beverages are normally sold or dispensed and must be delineated by diagram or blueprint which must be included with the license application or the license renewal application.
11. "Liquor" means any alcoholic beverage except beer.
12. "Local governing body" means the governing entity of a city, county, or federally recognized Indian tribe in this state.
13. "Local license" means a city, county, or tribal retail alcoholic beverage license issued by the appropriate local governing body.
14. "Microbrew pub" means a brewer that brews ten thousand or fewer barrels of beer per year and sells beer produced or manufactured on the premises for consumption on or off the premises or serves beer produced or manufactured on the premises for purposes of sampling the beer.
15. "Organization" means a domestic or foreign corporation, general partnership, limited partnership, or limited liability company.
16. "Sparkling wine" means wine made effervescent with carbon dioxide.
17. "Supplier" means an alcoholic beverage manufacturer, importer, marketer, or wholesaler selling alcoholic beverages to a wholesaler licensed in this state for purposes of resale.
18. "Tribal licensee" means a person issued a local license by the governing body of a federally recognized Indian tribe in this state for the retail sale of alcoholic beverages within the exterior tribal reservation boundaries.
19. "Twenty-one years of age" means it is after eight a.m. on the date twenty-one years after a person's date of birth.

20. “Wine” means the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume.

9.32.020 Individuals under twenty-one years of age prohibited from using alcoholic beverages or entering licensed premises – Penalty.

1. Except as permitted in this section and section 9.32.022, an individual under twenty-one years of age may not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any individual for the purchase of an alcoholic beverage.
2. An individual under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:
 - a. A restaurant if accompanied by a parent or legal guardian;
 - b. In accordance with section 9.32.022;
 - c. If the individual is an independent contractor or the independent contractor’s employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;
 - d. If the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or
 - e. If the individual enters the premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.
3. An individual who violates this section is guilty of an infraction. For a violation of subsection 1 or 2, the court also may sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of health and human services under N.D.C.C. section 50-06-44. For a second or subsequent violation of subsection 1 or 2, the court also shall sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of health and human services under N.D.C.C. section 50-06-44.
4. The court, under this section, may refer the individual to an outpatient addiction facility licensed by the department of health and human services for evaluation and appropriate counseling or treatment.
5. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals who may be immune for any one occurrence is five individuals.

9.32.022 Persons less than twenty-one years prohibited—Exceptions.

1. An individual under twenty-one years of age may enter and remain on a licensed premises while alcohol is being sold or displayed, at the discretion of the owner of the licensed premises if:
 - a. The individual is accompanied by a parent or guardian who is twenty-one years of age or older. For purposes of this section, “guardian” means an individual who has the legal responsibility for the health and well-being of the individual under twenty-one years of age;
 - b. The individual is on the premises to consume a meal or in an emergency situation;
 - c. The premises serves at a tabletop, food that is prepared in a kitchen with at least an indoor grill;
 - d. The individual is not on the licensed premises after ten p.m.; and
 - e. The owner of the licensed premises receives permission of the local licensing authority for individuals to be on the premises as allowed under this section and the licensed premises is located in a city with a population of one thousand five hundred or fewer people, or the licensed premises is not located in a city.
2.
 - a. At the discretion of the owner of the licensed premises, an individual under twenty-one years of age may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:
 - i. Is accompanied by a parent or guardian;
 - ii. Is not seated at or within three feet [0.91 meters] of the bard counter; and
 - iii. Does not enter or remain in the designated area after ten p.m.
 - b. An individual under twenty-one years of age may be permitted to remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the designated area in which alcoholic beverages are opened or missed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if the individual is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an individual twenty=one years of age or older and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.
3. An individual under twenty-one years of age may enter and remain on the licensed premises if the individual is an independent contractor or the independent contractor’s employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages; if the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or if the individual enters the licensed premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.
4. An individual under twenty-one years of age may attend an event where alcoholic beverages are sold in accordance with the conditions of an event permit issued pursuant to Title 8 of the City of Rolla Ordinances.
5. A restaurant may employ an individual who is eighteen years of age or older but under twenty-one years of age as provided in subsection 2 to serve and collect money for alcoholic beverages, if the individual is under the direct supervision of an individual twenty-one or more years of age, but may not be engaged in mixing,

- dispensing, or consuming alcoholic beverages. Any establishment that sells alcoholic beverages may employ an individual from eighteen to twenty-one years of age to work on the premises as a musician, disc jockey, or entertainer, or to perform duties directly related to working as a musician, disc jockey, or entertainer if the individual is under the direct supervision of an individual twenty-one or more years of age.
6. For purposes of this section, an individual is not twenty-one years of age until eight a.m. on that individual's twenty-first birthday.
 7. If an individual is convicted under 9.32.020 or 9.32.022, the court shall consider the following in mitigation:
 - a. After consuming the alcohol, the underage individual was in need of medical assistance as a result of consuming alcohol; and
 - b. Within twelve hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that the underage individual was in need of medical assistance as a result of consuming alcohol.

9.32.030 Misrepresentation of age—Obligations of licensee.

Any person who misrepresents or misstates that person's age or the age of any other person or who misrepresents that person's age through presentation of any document purporting to show that person to be of legal age to purchase alcoholic beverages is guilty of an offense. Any licensee may keep a book and may require anyone who has shown documentary proof of that person's age, which substantiates that person's age to allow the purchase of alcoholic beverages, to sign the book if the age of that person is in question. The book must show the date of the purchase, the identification used in making the purchase and the appropriate numbers of such identification, the address of the purchaser, and the purchaser's signature.

9.32.040 Bottle clubs prohibited.

Any person operating an establishment whereby persons are allowed to bring their own alcoholic beverages on the premises where the proprietor sells soft drinks, mix, ice, or charges for bringing such beverages on the premises is guilty of an offense.

9.32.050 Public intoxication—Assistance—Medical care.

1. As used in this section, "intoxicated" means a state in which an individual is under the influence of alcoholic beverages, drugs, or controlled substances, or a combination of alcoholic beverages, drugs, and controlled substances.
2. A peace officer may take any apparently intoxicated individual to the individual's home, to a local hospital, to a detoxification center, or, whenever that individual constitutes a danger to that individual or others, to a jail. A tier 1b mental health professional, as defined under N.D.C.C. section 25-01-01, of a local hospital may hold that individual for treatment up to seventy-two hours.
3. An intoxicated individual may not be held in jail because of intoxication more than twenty-four hours. An intoxicated individual may not be placed in a jail unless a jailer is constantly monitoring the individual and medical services are provided if the need is indicated.

4. Upon placing that individual in jail, or if the individual is admitted to a hospital or detoxification center, upon admission, the peace officer shall make a reasonable effort to notify the intoxicated individual's family as soon as possible.
5. Any additional costs incurred by the city, county, ambulance service, or medical service provider on account of an intoxicated individual are recoverable from that individual.

9.32.060 No prosecution for intoxication.

No person may be prosecuted in any court solely for public intoxication. Law enforcement officers may utilize standard identification procedures on all persons given assistance because of apparent intoxication.

9.32.100 Possession of marijuana, drug paraphernalia, and ingesting marijuana.

1. Possession of Marijuana. Any person in possession of not more than one-half ounce (14.175 grams) of marijuana, as that term is defined by N.D.C.C. Section 19-03.1-01, within the City of Rolla, is guilty of an infraction. Any person in possession of at least one-half ounce (14.175 grams) but not more than 500 grams of marijuana is guilty of a class B misdemeanor.
 - a. When a person pleads or is found guilty of a first offense under this section and a judgment of conviction is entered, the court, upon motion, shall seal that conviction from the record if the person is not subsequently convicted within two years of further violation of this ordinance or like ordinance or statute in any other jurisdiction and has not been convicted of another criminal offense. Once sealed, the court record may not be opened even by order of the court.
2. Drug Paraphernalia (Marijuana). A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana or possess with the intent to use drug paraphernalia to store or contain marijuana in violation of N.D.C.C. Chapter 19-03.1. A person violating this subsection is guilty of an infraction.
3. Ingesting Marijuana. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body marijuana, unless the substance was medical marijuana obtained in accordance with N.D.C.C. Chapter 19-24.1, is guilty of a Class B Misdemeanor. The marijuana must have been ingested, inhaled, injected, or otherwise taken into the body or the marijuana must have been detected in the body of the accused in the City of Rolla.

9.32.150 Sale of tobacco, electronic smoking devices, or alternative nicotine products to an individual under twenty-one years of age and use by an individual under twenty-one years of age prohibited.

1.
 - a. It is an infraction for any person to sell or furnish to an individual under twenty-one years of age, or procure for an individual under twenty-one years of age, cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or

b. It is a noncriminal offense for any person to display or offer for sale cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a self-service display. This subdivision does not apply to a:

- 87

hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.

- c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except an individual may not be imprisoned for the contempt.
6. The prosecution must prove the commission of a cited violation under subsection 2 or 4 by a preponderance of the evidence.
7. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.
8. A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.
9. As used in this section:
 - a. “Alternative nicotine product” means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include any cigarette, cigar, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, any electronic smoking device, or any product regulated as a drug or device by the United States food and drug administration under chapter V of the Federal Food, Drug, and Cosmetic Act [21 U.S.C 501 et seq.].
 - b. “Electronic smoking device” means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.].
 - c. “Self-service display” means a display that contains cigarettes, cigarette papers, cigars, snuff, tobacco in any other form which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products and is located in an area that is openly accessible to the retailer’s customers, and from which customers can readily access those products without the assistance of a salesperson. A display case that holds those products behind locked doors does not constitute a self-service display.
 - d. “Tobacco specialty store” means a retail store that:
 - i. Derives at least seventy-five percent of its revenue from the sale of cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products; and
 - ii. Does not permit minors to enter the premises unless accompanied by a parent or legal guardian.

- e. “Vending machine” means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or other means of payment that is designed or used for vending purposes, including machines or devices that use remote control locking mechanisms.

9.32.160 Vending machines prohibited.

1. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a vending machine, except as provided in subsection 2.
2. Subsection 1 does not apply to:
 - a. A vending machine that is located in an area in which individuals under twenty-one years of age are not permitted access; or
 - b. A vending machine that dispenses cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through the operation of a device that requires a salesperson to control the dispensation of such product.
3. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through any vending machine, if those products are placed together with any nontobacco product, other than matches, in the vending machine.
4. As used in this section, “electronic smoking devices” and “alternative nicotine products” have the same meaning as in 9.32.150.

9.32.180 Sale of bidis prohibited.

It is an infraction for any person to sell the tobacco product commonly referred to as bidis or beedies. For purposes of this section, “bidis” or “beedies” means a product containing tobacco which is wrapped in temburni leaf, also known as diospyros melanoxylon, or tendu leaf, also known as diospyros exculpra.

Chapter 9.34 – Curfew

9.34.010 Curfew – Under 18 years of age

It shall be unlawful for any child under the age of 18 years old to be in or upon the streets, alleys, parks or public places except schools and churches in the City of Rolla after 10:00 P.M., without the written consent of the parent or guardian of said child, unless accompanied by a parent or guardian or some adult authorized by such parent or guardian.

9.34.030 Curfew – Parents

It shall be unlawful for any parent, guardian, or other person having the legal care and custody of any child under 18 years of age, to allow or permit any such child, ward or other person under such age, while in such legal custody, to go or to be in or upon any of the streets,

alleys, parks or public places except schools and churches in the City of Rolla within the time prescribed by the provisions of Chapter 9.34.

9.34.050 Penalty

Any person violating any of the provisions of this Chapter shall be guilty of an infraction and punished by a fine not to exceed \$50.00.

Chapter 9.36 – Miscellaneous Offenses

9.36.010 Tattooing, branding, subdermal implants, scarifying, and piercing—
Minors.

1. As used in this section:
 - a. “Brand” means the use of heat, cold, or any chemical compound to imprint permanent markings on an individual’s skin.
 - b. “Pierce” means the puncture of any part of an individual’s body to insert studs, pins, rings, chains, or other jewelry or adornment.
 - c. “Scarify” means to cut, tear, or abrade an individual’s skin for the purpose of creating a permanent mark or design on the skin.
 - d. “Subdermal implant” means to insert a foreign object beneath the skin to decorate an individual’s body.
 - e. “Tattoo” means to mark the skin of an individual by insertion of permanent colors through puncture of the skin.
2. It is a class B misdemeanor for a person, other than a licensed health care professional acting within that professional’s scope of practice, to tattoo, brand, subdermal implant, scarify, or pierce an individual who is under eighteen years of age unless the tattooing, branding, subdermal implanting, scarifying, or piercing takes place in the presence of and with the written consent of the individual’s parent or legal guardian.
3. It is a class B misdemeanor for a person to sell, trade, or otherwise provide materials or kits for tattooing, self-tattooing, branding, self-branding, scarifying, self-scarifying, subdermal implanting, self-subdermal implanting, body piercing, or self-body piercing to an individual who is under eighteen years of age.

9.36.020 False representation of marital status.

An individual is guilty of a class B misdemeanor if the individual lives openly and notoriously with an individual of the opposite sex as a married couple without being married to the other individual and falsely represents the couple’s status as being married to each other.

9.36.030 Surreptitious intrusion or interference with privacy.

1. An individual is guilty of a class B misdemeanor if, with intent to intrude upon or interfere with the privacy of another, the individual:
 - a. Enters upon another’s property and surreptitiously gazes, stares, or peeps into a house or place of dwelling of another; or
 - b. Enters upon another’s property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a house or place of dwelling of another.

2. An individual is guilty of a class B misdemeanor if, with intent to intrude upon or interfere with the privacy of an occupant, the individual:
 - a. Surreptitiously gazes, stares, or peeps into a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy; or
 - b. Surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy.
3. An individual is guilty of an infraction if the individual enters upon another's property and installs any device for observing, recording, or photographing wildlife while the owner of the device is absent unless:
 - a. The individual has written permission from the owner or an individual authorized by the owner of the property; and
 - b. The device has a permanently affixed metal or plastic tag with a registration number issued by the game and fish department, or the individual's name, address, and telephone number.
4. In a prosecution under this section, it is an affirmative defense that an individual was a resident of a facility who was authorized to conduct electronic monitoring as outlined in N.D.C.C. section 50-10.2-02.1.

Chapter 9.40 – Penalties and Sentencing

9.40.010 Classification of offenses.

1. All violations of the provisions of the ordinances of this city are offenses unless specifically labelled infractions or unless a different classification or punishment is specifically authorized.

9.40.020 Sentencing alternatives—Credit for time in custody—Diagnostic testing.

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:
 - a. Payment of the reasonable costs of the person's prosecution.
 - b. Probation.
 - c. A term of imprisonment, including intermittent imprisonment:
 - i. In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.
 - ii. In a county jail or in a regional corrections center, if convicted of a class B misdemeanor.
 - iii. In a facility or program deemed appropriate for the treatment of the individual offender, including available community-based or faith-based programs.

- iv. In the case of persons convicted of an offense who are under eighteen years of age at the time of sentencing, the court is limited to sentencing the minor defendant to a term of imprisonment in the custody of the department of corrections and rehabilitation.
- d. A fine.
- e. Restitution for damages resulting from the commission of the offense.
- f. Restoration of damaged property or other appropriate work detail.
- g. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect.
- h. Commitment to a sexual offender treatment program.
- i. Drug court program. A drug court is a district court supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and substance use disorder treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug court programs.
- j. Veterans treatment docket. A veterans treatment docket is a district court supervised docket approved by the supreme court which combines judicial supervision with licensed treatment programs to treat substance use disorders, mental health conditions, behavioral health conditions, traumatic brain injuries, military sexual trauma, and co-occurring disorders. The supreme court may adopt rules, including rules of procedure, for veterans treatment dockets.
- k. Completion of a restorative justice program. For purposes of this section, “restorative justice program” means a system of justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large.
- l. Mental health court program. A mental health court is a district court supervised treatment program approved by the supreme court which combines judicial supervision with mental health services and treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for mental health court programs.

Except as provided by section N.D.C.C. section 12.1-32-06.1 related to additional probation for violation of conditions, sentences imposed under this subsection may not exceed in duration the maximum sentences of imprisonment provided by section 9.40.010, or as provided specifically in an ordinance defining an offense. This subsection does not permit the unconditional discharge of an offender following conviction. A sentence under subdivision e or f must be imposed in the manner provided in section 9.40.180. If the person is sentenced to a term of imprisonment, the court may prohibit the person from contacting the victim during the term of imprisonment. For purposes of this subsection, “victim” means victim as defined in section 9.01.020.

- 2. Credit against any sentence to a term of imprisonment must be given by the court to a defendant for all time spent in custody as a result of the criminal charge for which the sentence was imposed or as a result of the conduct on which such charge was based. “Time spent in custody” includes time spent in custody in a jail or mental institution for the offense charged, whether that time is spent prior to trial, during trial, pending

sentence, or pending appeal. The total amount of credit the defendant is entitled to for time spent in custody and any credit for sentence reduction provided by the correctional facility must be stated in the criminal judgment.

3. A court may suspend the execution of all or a part of the sentence imposed. The court shall place the defendant on probation during the term of suspension.
4. A court, upon application or its own motion, may defer imposition of sentence. The court must place the defendant on probation during the period of deferment. An order deferring imposition of sentence is reviewable upon appeal from a verdict or judgment. In any subsequent prosecution, for any other offense, the prior conviction for which imposition of sentence is deferred may be pleaded and proved, and has the same effect as if probation had not been granted or the information or indictment dismissed under section 9.40.110.
5. A court may, prior to imposition of sentence, order the convicted offender committed to an appropriate licensed public or private institution for diagnostic testing for such period of time as may be necessary, but not to exceed thirty days. The court may, by subsequent order, extend the period of commitment for not to exceed thirty additional days. The court may also order such diagnostic testing without ordering commitment to an institution. Validity of a sentence must not be challenged on the ground that diagnostic testing was not performed pursuant to this subsection.
6. All sentences imposed must be accompanied by a written statement by the court setting forth the reasons for imposing the particular sentence. The statement must become part of the record of the case.
7. If an offender is sentenced to a term of imprisonment, that term of imprisonment commences at the time of sentencing, unless, upon motion of the defendant, the court orders the term to commence at some other time.
8. Unless otherwise specifically authorized in the statute defining the offense, a court may not include a minimum term of imprisonment as part of its sentence.

9.40.030 Mandatory sentences—Exceptions.

1. In addition to any other provision of law, when sentencing an individual convicted of a violation in N.D.C.C. Uniform Controlled Substances Act and any corresponding City of Rolla Ordinances for which there is a mandatory minimum sentence, the court may depart from the applicable mandatory minimum sentence if the court, in giving due regard to the nature of the crime, history and character of the defendant, and the defendant's chances of successful rehabilitation, finds a compelling reason on the record that imposition of the mandatory minimum sentence would result in manifest injustice to the defendant and that the mandatory minimum sentence is not necessary for the protection of the public.
2. Upon departing from a mandatory minimum sentence, a judge shall report to the state court administrator who shall make available in electronic form and on the world wide web an annual report by July 1 of each year on the total number of departures from mandatory minimum sentences.

9.40.050 Procedure for trial of infraction—Incidents.

1. Except as provided in this subsection, all procedural provisions relating to the trial of criminal cases as provided in the statutes or rules relating to criminal procedure shall apply to the trial of a person charged with an infraction. A person charged with an infraction is not entitled to be furnished counsel at public expense nor to have a trial by jury unless the person may be subject to a sentence of imprisonment under subsection 2 of section 9.40.010.
2. Except as provided in NDCC title 12.1 or the ordinances of this City, all provisions of law and rules of criminal procedure relating to offenses shall apply to infractions, including, but not limited to, the powers of law enforcement officers, the jurisdiction of courts, the periods for commencing action and bringing a case to trial, and the burden of proof.
3. Following conviction of an infraction, the offender may be sentenced in accordance with subsection 1 of 9.40.020, except that a term of imprisonment may not be imposed except in accordance with subsection 3 of 9.40.070, or subsection 7 of 9.40.010.
4. If an ordinance provides that conduct is an infraction without specifically including a requirement of culpability, no culpability is required.

9.04.060 Factors to be considered in sentencing.

The following factors, or the converse thereof where appropriate, while not controlling the discretion of the court, shall be accorded weight in making determinations regarding the desirability of sentencing an offender to imprisonment:

1. The defendant's criminal conduct neither caused nor threatened serious harm to another person or his property.
2. The defendant did not plan or expect that his criminal conduct would cause or threaten serious harm to another person or his property.
3. The defendant acted under strong provocation.
4. There were substantial grounds which, though insufficient to establish a legal defense, tend to excuse or justify the defendant's conduct.
5. The victim of the defendant's conduct induced or facilitated its commission.
6. The defendant has made or will make restitution or reparation to the victim of his conduct for the damage or injury which was sustained.
7. The defendant has no history of prior delinquency or criminal activity, or has led a law-abiding life for a substantial period of time before the commission of the present offense.
8. The defendant's conduct was the result of circumstances unlikely to recur.
9. The character, history, and attitudes of the defendant indicate that he is unlikely to commit another crime.
10. The defendant is particularly likely to respond affirmatively to probationary treatment.
11. The imprisonment of the defendant would entail undue hardship to himself or his dependents.
12. The defendant is elderly or in poor health.
13. The defendant did not abuse a public position of responsibility or trust.
14. The defendant cooperated with law enforcement authorities by bringing other offenders to justice, or otherwise cooperated.

Nothing herein shall be deemed to require explicit reference to these factors in a presentence report or by the court at sentencing.

9.40.070 Imposition of fine—Response to nonpayment.

1. The court, in making a determination of the propriety of imposing a sentence to pay a fine, shall consider the following factors:
 - a. The ability of the defendant to pay without undue hardship.
 - b. Whether the defendant, other than a defendant organization, gained money or property as a result of commission.
 - c. Whether the sentence to pay a fine will interfere with the defendant's capacity to make restitution.
 - d. Whether a sentence to pay a fine will serve a valid rehabilitative purpose.
2. The court may allow the defendant to pay any fine imposed in installments. When a defendant is sentenced to pay a fine or costs, the court shall not impose at the same time an alternative sentence to be served in the event that the fine is not paid.
3. If the defendant does not pay any fine or costs imposed, or make any required partial payment, the court, upon motion of the prosecuting attorney or on its own motion, may issue an order to show cause why the defendant should not be imprisoned for nonpayment. Unless the defendant shows that his default is excusable, the court may, sentence him to imprisonment for a period not to exceed thirty days for failure to pay.

9.40.080 Length and termination of probation — Additional probation for violation of conditions — Penalty.

1. Except as provided in this section, the length of unsupervised probation imposed in conjunction with a sentence to probation or a suspended execution or deferred imposition of sentence may not extend for more than two years for an offense or infraction from the later of the date of:
 - a. The order imposing probation; or
 - b. The defendant's release from incarceration.
2. Except as provided in this section, the length of supervised probation imposed in conjunction with a sentence of probation or a suspended execution or deferred imposition of sentence may not extend for more than three hundred sixty days for an offense from the later of the date of:
 - a. The order imposing probation; or
 - b. The defendant's release from incarceration.
3. If the defendant has pled or been found guilty of an offense for which the court imposes a sentence of restitution or reparation for damages resulting from the commission of the offense, the court may, following a restitution hearing pursuant to 9.40.170, impose additional periods of unsupervised probation not to exceed five years for each additional period imposed.
4. In consequence of violation of probation conditions, the court may impose additional probation if the defendant has not served the maximum sentence of imprisonment available to the court at the time of initial sentencing or deferment or the total time on probation authorized under this section not to exceed three years.

5. The court may terminate a period of probation and discharge the defendant at any time earlier than that provided in subsection 1 if warranted by the conduct of the defendant and the ends of justice.
6. Notwithstanding the fact that a sentence to probation subsequently can be modified or revoked, a judgment that includes such a sentence constitutes a final judgment for all other purposes.

9.40.090 Supervision of Probationer—Conditions of probation—Revocation.

1. The conditions of probation must be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life or to assist the defendant to do so. The court shall provide as an explicit condition of every probation that the defendant not commit another crime during the period for which the probation remains subject to revocation. The court shall order supervision costs and fees of not less than fifty-five dollars per month unless the court makes a specific finding on record that the imposition of fees will result in an undue hardship. If the offender has not paid the full amount of supervision fees and costs before completion or termination of probation, the court may issue an order, after opportunity for hearing, to determine the amount of supervision fees and costs that are unpaid. The order may be filed, transcribed, and enforced by the department of corrections and rehabilitation in the same manner as civil judgments rendered by a district court of this state.
2. The court shall provide as an explicit condition of every probation that the defendant may not possess a firearm, destructive device, or other dangerous weapon while the defendant is on probation. Except when the offense is a misdemeanor offense under 9.16.010 or 9.16.020, the court may waive this condition of probation if the defendant has pled guilty to, or has been found guilty of, a misdemeanor or infraction offense, the misdemeanor or infraction is the defendant's first offense, and the court has made a specific finding on the record before imposition of a sentence or a probation that there is good cause to waive the condition. The court may not waive this condition of probation if the court places the defendant under the supervision and management of the department of corrections and rehabilitation. The court shall provide as an explicit condition of probation that the defendant may not willfully defraud a urine test administered as a condition of probation. Unless waived on the record by the court, the court shall also provide as a condition of probation that the defendant undergo various agreed-to community constraints and conditions as intermediate measures of the department of corrections and rehabilitation to avoid revocation, which may include:
 - a. Community service;
 - b. Day reporting;
 - c. Curfew;
 - d. Home confinement;
 - e. House arrest;
 - f. Electronic monitoring;
 - g. Residential halfway house;
 - h. Intensive supervision program;
 - i. Up to five non-successive periods of incarceration during any twelve-month period, each of which may not exceed forty-eight consecutive hours;

- j. Participation in the twenty-four seven sobriety program; or
 - k. One period of incarceration during a period of probation not to exceed thirty consecutive days in lieu of a petition for revocation of probation.
3. When imposing a sentence to probation, probation in conjunction with imprisonment, or probation in conjunction with suspended execution or deferred imposition of sentence, the court may impose such conditions as it deems appropriate and may include any one or more of the following:
- a. Work faithfully at a suitable employment or faithfully pursue a course of study or of career and technical education training that will equip the defendant for suitable employment.
 - b. Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
 - c. Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
 - d. Support the defendant's dependents and meet other family responsibilities.
 - e. Make restitution or reparation to the victim of the defendant's conduct for the damage or injury which was sustained or perform other reasonable assigned work. When restitution, reparation, or assigned work is a condition of probation, the court shall proceed as provided in 9.40.170.
 - f. Pay a fine imposed after consideration of the provisions of 9.40.070.
 - g. Refrain from excessive use of alcohol or any use of narcotics or of another dangerous or abusable drug without a prescription.
 - h. Permit the probation officer to visit the defendant at reasonable times at the defendant's home or elsewhere.
 - i. Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer.
 - j. Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.
 - k. Report to a probation officer at reasonable times as directed by the court or the probation officer.
 - l. Submit to a medical examination or other reasonable testing for the purpose of determining the defendant's use of narcotics, marijuana, or other controlled substance whenever required by a probation officer.
 - m. Refrain from associating with known users or traffickers in narcotics, marijuana, or other controlled substances.
 - n. Submit the defendant's person, place of residence, or vehicle to search and seizure by a probation officer at any time of the day or night, with or without a search warrant.
 - o. Serve a term of imprisonment of up to one-half of the maximum term authorized for the offense of which the defendant was convicted.
 - p. Reimburse the costs and expenses determined necessary for the defendant's adequate defense when counsel is appointed or provided at public expense for the defendant. When reimbursement of indigent defense costs and expenses is imposed as a condition of probation, the court shall proceed as provided in subsection 4 of 9.40.170.
 - q. Provide community service for the number of hours designated by the court.

- r. Refrain from any subscription to, access to, or use of the internet.
- 4. When the court imposes a sentence to probation, probation in conjunction with imprisonment, or probation in conjunction with suspended execution or deferred imposition of sentence, the defendant must be given a certificate explicitly setting forth the conditions on which the defendant is being released.
- 5. The court, upon notice to the probationer and with good cause, may modify or enlarge the conditions of probation at any time before the expiration or termination of the period for which the probation remains conditional. If the defendant violates a condition of probation at any time before the expiration or termination of the period, the court may continue the defendant on the existing probation, with or without modifying or enlarging the conditions, or may revoke the probation and impose any other sentence that was available under 9.40-020 at the time of initial sentencing or deferment.
- 6. The court may continue or modify probation conditions or revoke probation for a violation of probation conditions occurring before the expiration or termination of the period of probation notwithstanding that the order of the court is imposed after the expiration or termination has occurred. The petition for revocation must be issued within sixty days of the expiration or termination of probation.
- 7. Jurisdiction over a probationer may be transferred from the court that imposed the sentence to another court of this state with the concurrence of both courts. Retransfers of jurisdiction may also occur in the same manner. The court to which jurisdiction has been transferred under this subsection may exercise all powers permissible under this chapter over the defendant.
- 8. Notwithstanding any other provision of law, the court may authorize the defendant to assist law enforcement officers in an investigation of a criminal offense upon the terms and conditions as the court may require by written order. The court shall hold a hearing in camera before issuing an order under this subsection. The order must be sealed and is subject to inspection only upon order of the court.

9.40.110 Release, discharge, or termination of probation.

- 1. Whenever a person has been placed on probation and in the judgment of the court that person has satisfactorily met the conditions of probation, the court shall cause to be issued to the person a final discharge from further supervision.
- 2. Whenever a person has been placed on probation pursuant to subsection 4 of 9.40.020, the court at any time, when the ends of justice will be served, and when reformation of the probationer warrants, may terminate the period of probation and discharge the person so held. Every defendant who has fulfilled the conditions of probation for the entire period, or who has been discharged from probation prior to termination of the probation period, may at any time be permitted in the discretion of the court to withdraw the defendant's plea of guilty. The court may in its discretion set aside the verdict of guilty. In either case, the court may dismiss the information or indictment against the defendant. The defendant must then be released from all penalties and disabilities resulting from the offense or crime of which the defendant has been convicted except as provided by 9.28.110 or 9.28.120.

9.40.130 Records and filing of papers.

Whenever imposition of sentence is deferred and, pursuant to 9.40.110, the plea of guilty is withdrawn by the defendant or the verdict of guilty is set aside by the court, the clerk of court shall file all papers, including the findings and final orders in proceedings under 9.40.110, and shall note the date of filing on the papers. The records and papers are subject to examination by the clerk, a judge of the court, the juvenile commissioner, probation officers, the defendant or defendant's counsel, and the state's attorney. Others may examine the records and papers only upon the written order of a judge of the court.

9.40.150 When probationer deemed escapee and fugitive from justice.

A probationer is considered an escapee and a fugitive from justice if the probationer leaves the jurisdiction before the expiration of the probationary period without permission of the court or the department of corrections and rehabilitation.

9.40.170 Hearing prior to ordering restitution, reparation, or reimbursement of indigent defense costs and expenses - Conditions - Continuing appropriation.

1. The court, when sentencing a person adjudged guilty of criminal activities that have resulted in pecuniary damages, in addition to any other sentence the court may impose, shall order that the defendant make restitution to the victim or other recipient as determined by the court.
2. If the court has retained jurisdiction after the sentencing hearing for claims of restitution, to make a claim for restitution, the victim shall submit information by affidavit or declaration and, as applicable, documentary evidence within the time specified in the order. The information submitted must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and present facts and evidence sufficient to support a finding the restitution is directly related to the offense and the amount awarded. The prosecutor shall serve the defendant with a copy of the information submitted by the victim no later than sixty days following sentencing.
3. The defendant may challenge restitution but must do so by requesting a hearing within thirty days of being served with the written notification of the amount of restitution requested. The hearing request must be made in writing and filed with the court. If no hearing is requested, the court may enter a judgment ordering restitution. A defendant may not challenge restitution after the thirty-day time period has passed.
4. In determining the amount of restitution, the court shall take into account the reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually sustained as a direct result of the defendant's criminal action. This can include an amount equal to the cost of necessary and related professional services and devices relating to physical, psychiatric, and psychological care. The court shall fix the amount of restitution or reparation and shall fix the manner of performance of any condition or conditions of probation established pursuant to this subsection. The court may order the defendant to disclose income and assets on forms developed by the state court administrator to facilitate the setting of an appropriate payment plan. Any

- payments made pursuant to the order must be deducted from damages awarded in a civil action arising from the same incident.
5. An order that a defendant make restitution or reparation as a sentence or condition of probation, unless the court directs otherwise, may be filed without filing fee, transcribed, and enforced by the person entitled to the restitution or reparation or by the division of adult services in the same manner as civil judgments rendered by the courts of this state may be enforced. Upon thirty days' written notice to the victim's last known address, the court may order the judgment imposing a duty to pay restitution or reparation be docketed in the same manner as a civil judgment.
 6. The court may order the defendant to perform reasonable assigned work as a condition of probation, which assigned work need not be related to the offense charged, but must not be solely for the benefit of a private individual other than the victim.
 7. Under section 9.40.090, the court may order that the defendant reimburse indigent defense costs and expenses as a condition of probation.
 - a. Unless it finds that there is no likelihood that the defendant is or will be able to pay attorney's fees and expenses, the court, in its judgment of conviction, and in any order or amended judgment following a revocation or other post judgment proceeding, shall notify the defendant, the defendant's probation officer, and the prosecuting attorney of the presumed amount of costs and expenses to be reimbursed, as determined by the commission on legal counsel for indigents, and of the right to a hearing on the reimbursement amount. The reimbursement amount must include an application fee imposed under N.D.C.C. section 29-07-01.1 if the fee has not been paid before disposition of the case and the court has not waived payment of the fee.
 - b. If the defendant or prosecutor requests a hearing within thirty days of receiving notice under this subdivision, the court shall schedule a hearing at which the actual amount of attorney's fees and expenses must be shown. In determining the amount and method of reimbursement, the court shall consider the financial resources of the defendant and the nature of the burden that reimbursement of costs and expenses will impose.
 - c. A defendant who is required to reimburse indigent defense costs and expenses as a condition of probation and who is not willfully in default in that reimbursement may at any time petition the court that imposed the condition to waive reimbursement of all or any portion of the costs and expenses. If the court is satisfied that reimbursement of the amount due will impose undue hardship on the defendant or the defendant's immediate family, the court may waive reimbursement of all or any portion of the amount due or modify the method of payment.
 - d. If at any time the court finds that the defendant is able to reimburse costs and expenses and has willfully failed to do so, the court may continue, modify, or enlarge the conditions of probation or revoke probation as provided in subsection 6 or 7, as applicable, of section 9.40.090.
 8. If the court finds that the defendant is unable to pay a fine, supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations, the court may order the defendant to perform reasonable assigned work in lieu of all

or part of a fine, a supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations. The defendant may not perform reasonable assigned work in lieu of restitution or reparations unless the person entitled to restitution or reparations has consented in writing or on the record.

9.40.190 Restitution to be required of certain offenders—Penalty.

Notwithstanding any other provision in this chapter, whenever a person whose license has been suspended for nonpayment of child support under N.D.C.C. section 50-09-08.6 is convicted of engaging in activity for which the license was required, the court shall require as a condition of the sentence that the person pay restitution in the amount of two hundred fifty dollars, or a higher amount set by the court, as specified in subdivision e of subsection 4 of section 9.40.090. Any restitution ordered under this section must be paid to the state disbursement unit for distribution under N.D.C.C. section 14-09-25.

9.40.210 Restoration of property or other work to be required of certain offenders.

Other provisions of this chapter notwithstanding, whenever a person convicted of criminal mischief is placed on probation pursuant to section 9.40.020 or 9.40.090, the court shall include as a condition of that probation the requirement that the person perform restoration or other assigned work as specified in subdivision e of subsection 4 of section 9.40.090.

9.40.240 Merger of sentences — Sentencing for multiple offenses.

Unless the court otherwise orders, when a person serving a term of commitment imposed by a court of this state is committed for another offense or offenses, the shorter term or the shorter remaining term shall be merged in the other term. When a person on probation or parole for an offense committed in this city is sentenced for another offense or offenses, the period still to be served on probation or parole shall be merged in any new sentence of commitment or probation. A court merging sentences under this subsection shall forthwith furnish each of the other courts previously involved and the penal facility in which the defendant is confined under sentence with authenticated copies of its sentence, which shall cite the sentences being merged. A court which imposed a sentence which is merged pursuant to this subsection shall modify such sentence in accordance with the effect of the merger.

TITLE 11 – PARKS

Chapter 11.01 – Park District of the City of Rolla

11.01.010 Creation

There is hereby created, “Park District of the City of Rolla,” a public corporation of the City of Rolla, State of North Dakota, under the provisions of Chapter 40-49 of the North Dakota Century Code.

11.01.030 Operation

Said Park District shall be operated under the provisions of, and have the general powers described in, said Chapter 40-49 of the North Dakota Century Code, as amended, and all other laws of the State of North Dakota applicable to park districts; the Board of Park Commissioners thereof, shall be formed in accordance with, and shall have the powers, duties, and obligations prescribed by said laws of North Dakota.

TITLE 12 – STREETS AND SIDEWALKS

Chapter 12.01 - Construction and Repair

12.01.010 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.

12.01.020 Construction and Repair – Permits

It shall be unlawful to construct, reconstruct, alter, grade or repair any public street, sidewalk, driveway, curb or gutter without having first secured a permit therefore, unless said work is performed by an agent of the City of Rolla. 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.

12.01.030 Bond

Each applicant shall file a bond in an amount set by resolution of the governing body conditioned to indemnify the City for any loss or damage resulting from the work undertaken or the manner of doing the same. The City shall have full discretion in the amount of bond based on the scope of the project. The City shall also have the authority to waive the bond.

12.01.040 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.

12.01.050 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.

If the sidewalk is not constructed, repaired, or rebuilt in the manner and within the time prescribed in the notice, the governing body shall order the work done by such person as it may have contracted with therefor, under the supervision of the city engineer or of the street superintendent, at the expense of the lots or parcels of land benefiting from the sidewalk. The expense of constructing, repairing, or rebuilding the sidewalk shall include the expense of giving all notices, of making assessments, and of any other nature incurred in doing such work.

The expense of constructing, repairing, or rebuilding sidewalks must be assessed against the lots or parcels of land benefited by the sidewalk by the city engineer or street superintendent, who shall return the assessment and file it in the office of the city auditor. The city auditor shall cause such assessment, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the city at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered.

12.01.060 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 city engineer or street superintendent shall find reasonably necessary to the determination whether a permit should be issued hereunder.

12.01.070 Standards for Issuance of Permit

The city engineer or street superintendent 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.

12.01.080 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.
3. All residential sidewalks shall be at least four (4) inches in thickness and all commercial sidewalks shall be at least six (6) inches in thickness. Where driveways cross sidewalks, the thickness shall be five (5) inches for residential sidewalks, and a minimum of seven (7) inches for commercial sidewalks. The thickened portion shall

extend at least one foot on either side of the driveway widths. Where existing sidewalks are to be met, or unusual situations are encountered, the new sidewalk shall be laid as directed in the permit.

4. All sidewalks shall be laid out as follows:
 - a. All residential sidewalks shall be placed with the property side one foot from the property line towards the street.
 - b. In commercial areas the property side shall abut the property line.

12.01.090 Materials and Manner of Construction

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

12.01.110 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.

12.01.120 Penalty

Any person who shall violate any of the provisions of Chapter 12.01 shall be punished by a fine not exceeding \$100.00. The City Council shall set the fines for each violation by resolution.

Chapter 12.03 - Use and Care of Streets, Sidewalks and Public Places

12.03.010 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).

12.03.020 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 a class B misdemeanor.

12.03.030 Encroachments

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

12.03.040 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.

12.03.050 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.

12.03.060 Telegraph, Telephone, Electric Light, and other Poles

All Telegraph, Telephone, Electric Light, and other poles or posts, set or erected in the streets of this city shall be placed within and near the curb line abutting thereon and all poles or posts not situated otherwise than as above provided shall upon notice of the street superintendent or city engineer to the owner thereof, be removed and placed as herein provided and all such work shall be done under the supervision of the street superintendent or city engineer.

12.03.070 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.

12.03.080 Burning

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

12.03.090 Removal of Snow and Ice from Sidewalk

It shall be, and hereby is declared to be, the duty of the owner or occupant of each lot in the City to remove from the sidewalk in front of or along the same, any ice or snow which forms, accumulates or obstructs such sidewalk, within twenty-four (24) hours after the ice forms or the snow ceases to fall thereon. Where the ice accumulated is of such character as to make the removal thereof practically impossible, the sprinkling of ashes, sand, or salt 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 chapter.

12.03.110 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, sand, or salt 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, sand, or salt sprinkled thereon, and the necessary expenses shall be charged against the abutting property by special assessment in the manner prescribed by law.

12.03.120 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 known to the street superintendent.

12.03.130 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.

12.03.132 Illegal Placing of Snow

Snow or material of any kind may not be placed by any person on streets, avenues, or city property except snow from sidewalks that are abutting streets or avenues, without permission from the City of Rolla.

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

12.03.140 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.

12.03.150 City Buildings, Equipment and Vehicles - Smoking

Smoking is not permitted in City buildings, equipment and vehicles, except as provided under state law.

12.03.160 Penalty

Any person violating the provisions of this chapter, for which another penalty is not listed, shall be guilty of an infraction and shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00). The amount of each fine shall be set by resolution of the City of Rolla City Council.

Chapter 12.05 - Unclaimed and Abandoned Property

12.05.010 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 chapter when the same is permitted to remain in any one place upon said streets, alleys or other public ways for a period of ten (10) days or more. This section shall not control where other sections of the City of Rolla ordinances address specific types of unclaimed or abandoned property.

12.05.020 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.

12.05.030 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.

12.05.040 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.

12.05.050 Bill of Sale - Abandoned Property

Upon the receipt of the report, 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.

12.05.060 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.

12.05.070 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.

12.05.080 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.

Chapter 12.07 – Trees

12.07.010 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.

12.07.020 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 City 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.

12.07.030 Tree Pruning

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8’) feet above the surface of sidewalk and fifteen (15’) feet above street.

12.07.040 Planting of Trees

No trees shall be planted with in the City limits within 6ft of any curb nor within 3 feet of any sidewalk.

TITLE 13 - TRAFFIC

Chapter 13.01 - Definitions

In this title, unless the context or subject matter otherwise requires:

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. "Appropriate licensed addiction treatment program" means an addiction treatment program conducted by an addiction facility licensed by the department of health and human services or conducted by a licensed individual specifically trained in addiction treatment.
3. "Authorized emergency vehicles":
 - a. "Class A" authorized emergency vehicles means:
 - (1) Vehicles of a governmentally owned fire department.
 - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.
 - (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
 - (4) Ambulances and other vehicles authorized by licensure granted under N.D.C.C. chapter 23-27.
 - (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.
 - (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
 - (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.
 - (8) Vehicles operated by or under the control of the director of the parks and recreation department.
 - (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.
 - (10) Vehicles operated by or under the control of the state forester.
 - (11) Vehicles operated by or under the control of the bureau of criminal investigation and used for law enforcement purposes.
 - (12) Vehicles operated by or under the department of health and human services in cases of emergencies.
 - (13) Vehicles used or operated by governmental search and rescue personnel while performing emergency operations or duties. As used in this paragraph, "search and rescue" means deployment, coordination, and use of available

resources and personnel in locating, relieving the distress, and preserving the life of and removing an individual who is missing, trapped, or lost in the backcountry, remote areas, or waters of the state. The term includes water and dive rescue.

b. "Class B" authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.

c. "Class C" authorized emergency vehicles means:

(1) Vehicles used by the state division of homeland security or local division of emergency management organizations.

(2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.

(3) Vehicles, other than ambulances, used by emergency medical services personnel.

(4) Vehicles used by volunteer search and rescue personnel if performing an emergency operation or duty upon the request of a state entity, political subdivision, or volunteer fire department. A volunteer organization may classify a personal vehicle as a class C emergency vehicle if needed to assist in a search and rescue operation in accordance with this paragraph. As used in this paragraph, "search and rescue" means deployment, coordination, and use of available resources and personnel in locating, relieving the distress, and preserving the life of and removing an individual who is missing, trapped, or lost in the backcountry, remote areas, or waters of the state. The term includes water and dive rescue.

3. "Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels or two parallel wheels and one forward or rearward wheel. The term includes an electric bicycle and a multi-passenger bicycle.
4. "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. Provided, every motor vehicle designed for carrying not more than fifteen persons and used for a ridesharing arrangement, as defined in N.D.C.C. section 8-02-07, is not a "bus".
5. "Business district" means the territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet [91.44 meters] or more is occupied by buildings in use for business.
6. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
7. "Cancellation" means a license is annulled and terminated because of an error or defect or because the licensee is no longer entitled to the operator's license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after the cancellation.
8. "Child restraint system" means a specifically designed device, built-in seating system, or belt-positioning booster that meets the federal motor vehicle safety standards and is permanently affixed to a motor vehicle, is affixed to the vehicle by a safety belt or universal attachment system, or is combined with a federally compliant safety belt system.
9. "Commercial freighting" means the carriage of things other than passengers, for hire, except that such term does not include:

- a. The carriage of things other than passengers within the limits of the same city;
 - b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or in the immediate vicinity thereof, in this state, and not to exceed two miles [3.22 kilometers] from the corporate or recognized limits of said city; or
 - c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market.
- 10. "Commercial passenger transportation" means the carriage of passengers for hire, except that the term does not include:
 - a. The carriage of passengers within the limits of a city.
 - b. The carriage by local bus lines of passengers to or from a railroad station from or to places within any city or within two miles [3.22 kilometers] of the limits of the city.
 - c. The carriage of passengers under a ridesharing arrangement, as defined in N.D.C.C. section 8-02-07.
- 11. "Commissioner" means the director of the department of transportation of this state, acting directly or through authorized agents as provided by N.D.C.C. section 24-02-01.3.
- 12. "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.
- 13. "Conviction" means a final order or judgment or conviction by the North Dakota supreme court, any lower court having jurisdiction, a tribal court, or a court in another state if an appeal is not pending and the time for filing a notice of appeal has elapsed. Subject to the filing of an appeal, the term includes:
 - a. An imposed and suspended sentence;
 - b. A deferred imposition of sentence under subsection 4 of section 12.1-32-02; or
 - c. A forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.
- 14. "Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
- 15. "Dealer" means every person, partnership, corporation, or limited liability company engaged in the business of buying, selling, or exchanging motor vehicles, or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, limited liability company, or association doing business in several cities or in several locations within a city must be considered a separate dealer in each such location.
- 16. "Department" means the department of transportation of this state as provided by N.D.C.C. section 24-02-01.1.
- 17. "Director" means the director of the department of transportation of this state as provided by section 24-02-01.3.

18. "Driver" means every person who drives or is in actual physical control of a vehicle.
19. "Electric bicycle" means a bicycle equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of seven hundred fifty or fewer watts which meets the requirements of one of the following three classes:
 - a. A class 1 electric bicycle if the motor provides assistance only when the individual is pedaling and the motor ceases to provide assistance when a speed of twenty miles [32 kilometers] per hour is achieved.
 - b. A class 2 electric bicycle if the motor is capable of propelling the bicycle without the individual pedaling and the motor ceases to provide assistance when a speed of twenty miles [32 kilometers] per hour is achieved.
 - c. A class 3 electric bicycle if the motor provides assistance only when the individual is pedaling and the motor ceases to provide assistance when a speed of twenty-eight miles [45 kilometers] per hour is achieved.
20. "Electronic communication device" means an electronic device, including a wireless telephone, personal digital assistant, a portable or mobile computer or other device, and video display equipment. The term does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.
21. "Essential parts" means all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation and includes all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.
22. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or by destroying life or limb.
23. "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.
24. "Farm trailer" includes those trailers and semitrailers towed by a bona fide resident farmer hauling the farmer's own agricultural, horticultural, dairy, and other farm products if the gross weight, not including the towing vehicle, does not exceed twenty-four thousand pounds [10886.22 kilograms].
25. "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
26. "Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit [21.11 degrees Celsius], or less, as determined by a tagliabue or equivalent closed-cup test device.

27. "Foreign vehicle" means every motor vehicle which is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.
28. "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.
29. "Guest" means and includes a person who accepts a ride in any vehicle without giving compensation therefor.
30. "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and of every way privately maintained within a mobile home park, trailer park, or campground containing five or more lots for occupancy by mobile homes, travel trailers, or tents when any part thereof is open for purposes of vehicular travel.
31. "House car" or "motor home" means a motor vehicle which has been reconstructed or manufactured primarily for private use as a temporary or recreational dwelling and having at least four of the following permanently installed systems:
 - a. Cooking facilities.
 - b. Icebox or mechanical refrigerator.
 - c. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
 - d. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
 - e. Heating or air-conditioning system, or both, separate from the vehicle engine or the vehicle engine electrical system.
 - f. A 110-115 volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.
32. "Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway.
33. "Infraction" means a crime for which a maximum fine of one thousand dollars may be imposed. Any person convicted of an infraction who, within one year before commission of the infraction of which the person was convicted, has been convicted previously at least twice of the same offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint must specify the offense is a misdemeanor.
34. "Intentionally" means when a person engages in conduct and it is his purpose to do so.
35. "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of each roadway of such divided highway by an intersecting highway must be regarded as a separate intersection. In the event such intersecting highway also

includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of two roadways of such highways must be regarded as a separate intersection.

34. "Intoxicating liquor" means and includes any beverage containing alcohol.
35. "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a claim for relief arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a claim for relief on an agreement of settlement for such damages.
36. "Knowingly" means when a person engages in conduct, he knows or has a firm belief, unaccompanied by substantial doubt, that he is doing so, whether or not it is his purpose to do so.
37. "Legal owner" means a person who holds the legal title to a vehicle.
38. "Licensed health care provider" means doctor of medicine, doctor of osteopathy, doctor of chiropractic, optometrist, psychologist, advanced practice registered nurse, or physician assistant who is licensed, certified, or registered in accordance with laws and regulations in this or another state.
39. "Lienholder" means a person holding a security interest in a vehicle.
40. "Local authorities" includes every county, municipal, and other local board or body having authority to adopt local police regulations under the constitution and laws of this state.
41. "Mail" means to deposit mail properly addressed and with postage prepaid with the United States postal service.
42. "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable person, with due consideration of the totality of circumstances.
43. "Manufactured home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected onsite, is three hundred twenty square feet [29.73 square meters] or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to whether the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under title 42 of the United States Code.
44. "Manufacturer" means any person who manufactures, assembles, or imports and sells new motor vehicles to new motor vehicle dealers for resale in the state; but such term does not include a person who assembles or specially builds interior equipment on a completed vehicle supplied by another manufacturer, distributor, or supplier.
45. "Metal tires" includes all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material except that this provision does not apply to pneumatic tires.

46. "Mobile home" means a structure, either single or multi-sectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet [8.23 meters] or more in length.
47. "Modular unit" includes every factory fabricated transportable building unit designed to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational, or industrial purposes.
48. "Motor vehicle" includes every vehicle that is self-propelled, every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and, for purposes of motor vehicle registration, title registration, and operator's licenses, motorized bicycles. The term does not include a snowmobile, an electric bicycle, or a multi-passenger bicycle.
48. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry. The term does not include an electric bicycle.
49. "Motorized bicycle" means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion or footrests for use by the operator, a power source providing up to a maximum of two brake horsepower having a maximum piston or rotor displacement of 3.05 cubic inches [49.98 milliliters] if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles [48.28 kilometers] per hour on a level road surface, and a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged, and the vehicle may not have a width greater than thirty-two inches [81.28 centimeters]. The term does not include an electric bicycle.
50. "Motor-powered recreational vehicle" means a motorcycle, unconventional vehicle, off-highway vehicle, or a snowmobile. The term does not include an electric bicycle.
51. "Multi-passenger bicycle" means a vehicle that:
- a. Has fully operative pedals for propulsion entirely by human power;
 - b. Has at least four wheels and is operated in a manner similar to a bicycle;
 - c. Has at least five seats for passengers;
 - d. Has been designed to be occupied by a driver and powered either by passengers providing pedal power to the drive train of the vehicle or by a motor capable of propelling the vehicle in the absence of human power;
 - e. Is used for commercial purposes;
 - f. Is operated by the owner of the vehicle or an employee of the owner of the vehicle;
 - g. Is equipped with a steering wheel that gives the driver exclusive control of the direction of the vehicle;
 - h. Is equipped with at least one taillamp;
 - i. Is equipped with a stop lamp; and
 - j. Is equipped with headlamps.
52. "Nonresident" means any person who is not a resident of this state.

53. "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state.
54. "Off-highway vehicle" means any motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. The term includes a motorized vehicle converted to operate on snow. The term does not include an electric bicycle. An off-highway vehicle must be classified into one of the following categories:
- a. Class I off-highway vehicle is a vehicle that does not qualify as road capable, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
 - b. Class II off-highway vehicle is fifty inches [1270.00 millimeters] or less in width, weighs one thousand two hundred pounds [544.31 kilograms] or less, and travels on three or more nonhighway tires; or is sixty-five inches [1651 millimeters] or less in width, weighs two thousand pounds [907.19 kilograms] or less, and travels on four or more nonhighway tires.
 - c. Class III off-highway vehicle weighs less than eight thousand pounds [3628.74 kilograms]; travels on skis, runners, tracks, or four or more tires; has a seat; has a wheel, handlebars, or steering for steering control; and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, but does not include a vehicle registered by the department.
55. "Official traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
56. "Operator" means every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
57. "Operator's license", "driver's license", or "license to operate a motor vehicle" means any operator's or driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:
- a. Any temporary license or instruction permit;
 - b. The privilege of any person to drive a motor vehicle whether such person holds a valid license; or
 - c. Any nonresident's operating privilege as defined in this section.
58. "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.
59. "Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.
60. "Passenger motor vehicle" means every motor vehicle designed principally for the transportation of persons and includes vehicles which utilize a truck chassis, but have a seating capacity for four or more passengers.

60. "Pedestrian" means any person afoot.
61. "Person" includes every natural person, firm, co-partnership, association, corporation, or limited liability company.
62. "Pneumatic tires" includes all tires inflated with compressed air.
63. "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.
64. "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
65. "Primary source identity document" means documentary evidence of an individual's name, date of birth, and legal presence required for operator's licenses and commercial driver's licenses related to the issuance of permits, licenses, and nondriver photo identification cards, and retained in the driver record.
66. "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
67. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring after the effective date of the proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.
68. "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.
69. "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
70. "Recklessly" means if a person engages in conduct in conscious and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct, except that, awareness of the risk is not required where its absence is due to self-induced intoxication.
71. "Reconstructed vehicle" means any vehicle, of a type required to be registered, materially altered from its original construction by the removal, addition, or substitution of new or used essential parts.
72. "Recreational vehicle" means any motorcycle not qualified for registration, off-highway vehicle, snowmobile, vessel, or personal watercraft. The term does not include an electric bicycle.
73. "Residence district" means territory contiguous to a highway not comprising a business district, when the frontage on such highway for a distance of three hundred feet [91.44 meters] or more is occupied mainly by dwellings, or by dwellings and buildings in use for business.

- 74. "Revocation" means that the operator's license is terminated and may not be renewed or restored, except on application for a new license presented to and acted upon by the director after the expiration of the period of revocation.
- 75. "Right of way" means the privilege of the immediate use of a roadway.
- 76. "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.
- 76. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein refers to any such roadway separately but not to all such roadways collectively.
- 77. "Saddle mount" means placing the front wheels of the drawn vehicle upon the bed of the drawing vehicle.
- 78. "Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set aside as a safety zone.
- 79. "Salvage certificate of title" means a document issued by the department for purposes of proof of ownership of a salvage or destroyed vehicle and not acceptable for motor vehicle registration purposes.
- 80. "School bus" means a motor vehicle designed or used to carry more than ten passengers in addition to the driver, and is used for the purpose of transporting preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-related events. School bus does not include a bus used as a common carrier.
- 81. "Semitrailer" includes every vehicle of the trailer type so designed and used in conjunction with a truck or truck tractor that some part of its own weight and that of its own load rests upon or is carried by a truck or truck tractor, except that it does not include a "house trailer" or "mobile home".
- 82. "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.
- 83. "Snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow, having a curb weight of not more than one thousand two hundred pounds [544.31 kilograms], driven by track or tracks in contact with the snow, steered by a ski or skis in contact with the snow, and which is not wider than forty-eight inches [121.92 centimeters].
- 84. "Solid tire" includes every tire made of rubber or other resilient material other than a pneumatic tire.
- 85. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway.
- 86. "Specially constructed vehicle" means any vehicle which was not constructed originally under the distinct name, make, model, or type by a generally recognized manufacturer of vehicles.
- 87. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

88. "State" means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada.
89. "Stop", when required, means complete cessation from movement.
90. "Stop" or "stopping", when prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.
91. "Street" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
92. "Superintendent" means the superintendent of the North Dakota state highway patrol, acting directly or through authorized employees of the superintendent.
93. "Suspension" means that the operator's license is temporarily withdrawn but only during the period of the suspension.
94. "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right of way to vehicles on such through highway and in obedience to either a stop sign or yield sign, when such signs are erected by law.
94. "Trackless trolley coach" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.
95. "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.
96. "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.
97. "Trailer" includes every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it does not include a "house trailer" or "mobile home", which terms mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers.
98. "Travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle.
99. "Truck" includes every motor vehicle designed, used, or maintained primarily for transportation of property.
100. "Truck camper" means a portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use; consists of a roof, floor, and sides; and is designed to be loaded onto and unloaded from the bed of a pickup truck.
101. "Truck tractor" includes every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
102. "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet [30.48 meters] for a distance of a quarter of a mile [402.34 meters] or more.

103. "Used vehicle" means a motor vehicle which has been sold, bargained, exchanged, given away, or the title to which has been transferred to another, by the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer.
104. "Vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks. The term does not include an electric bicycle.
105. "Willfully" includes conduct a person engages in intentionally, knowingly, or recklessly.

Chapter 13.03 – Traffic Administration

13.03.010 Duty of Police Department

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

13.03.020 Records of Traffic Violations

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

13.03.030 Police Department to Investigate Accidents

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

Every law enforcement officer, who in the regular course of duty investigates a motor vehicle accident required to be reported as provided in Chapter 13.06.090, either at the time and at the scene of the accident or thereafter by interviewing the participants or witnesses, shall make

and forward promptly a written report of such accident to the director of the North Dakota Department of Transportation.

Chapter 13.06 – Enforcement and Obedience to Traffic Regulations

13.06.010 Authority of Police and Fire Department Officials

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

13.06.020 Obedience to Traffic Ordinances

It shall be unlawful for any person to do any act prohibited by this Chapter or fail to perform any act required by this Chapter, and upon conviction of a violation of any of the provisions of this Chapter every person shall be punished as provided in Chapter 13.51.

13.06.030 Obedience to Police Officers or Firefighters

No person shall willfully refuse to comply with any lawful order or direction of any police officer or firefighter invested by law with authority to direct, control, or regulate traffic.

13.06.040 Certain Non-motorized Traffic to Obey Traffic Regulations

1. Every person propelling any shopping cart upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance and by the rules of the road, except those provisions which by their very nature can have no application.
2. Every person riding a bicycle or animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance, except those provisions of this ordinance which by their very nature can have no application.

13.06.050 Use of Coasters, Roller Skates and Similar Devices Restricted

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

13.06.060 Public Employees to Obey Traffic Regulations

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

13.06.070 Emergency Vehicles

1. The driver of a Class A authorized emergency vehicle may:
 - a. Park or stand, irrespective of the provisions of this chapter.
 - b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
 - c. Exceed the speed limit so long as he does not endanger life or property.
 - d. Disregard regulations governing directions of movement or turning in specified directions.
2. The exceptions herein granted to a Class A authorized emergency vehicle shall apply only:
 - a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions;
 - b. When the Class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death, or damage to property, and when giving adequate warning by use of an oscillating, rotating, revolving, or flashing red or combination red and white lights that are visible under normal atmospheric conditions for at least five hundred feet (152.4 meters) and if appropriate, giving audible signal by siren or airhorn. A firetruck, ambulance or law enforcement vehicle that is otherwise a Class A authorized emergency vehicle may display an oscillating, rotating, revolving, or flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision;
 - c. In any instance when the head of the law enforcement agency deems advisable within the area of that person's jurisdiction for the protection of person and property and when giving audible signal by siren or when giving

adequate warning by use of an oscillating, rotating, revolving or flashing red or combination red and white lights which are visible under normal atmospheric conditions for at least five hundred feet (152.4 meters). A firetruck, ambulance, or law enforcement vehicle that is otherwise a Class A authorized emergency vehicle may display an oscillating, rotating, revolving, or flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.

3. A class A authorized emergency vehicle may display a steady red or red and blue lamp that is visible under normal atmospheric conditions for at least five hundred feet (152.4 meters) when involved in an incident, emergency, or any other related activity.
4. Any law enforcement officer having stopped another vehicle along a highway, and while still involved in that incident, or any other related activity, may use amber lights, visible under normal atmospheric conditions for at least five hundred feet (152.4 meters), for the purpose of maintaining traffic flow.
5. The driver of Class B authorized emergency vehicles may:
 - a. Park or stand, irrespective of the provisions of this chapter.
 - b. Exceed the speed limit so long as he does not endanger life or property during the time of a local or national disaster.
 - c. Disregard regulations governing direction of movement or turning in specified directions.
6. The exceptions herein granted to a Class B authorized emergency vehicle shall apply only when the authorized emergency vehicle is displaying an amber and white light visible under normal atmospheric conditions for a distance of five hundred feet (152.4 meters) in any direction, and:
 - a. When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
 - b. When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of the driver; or
 - c. When traveling at a speed slower than the normal flow of traffic.
7. **Class C** authorized emergency vehicles. All Class B specifications apply to Class C authorized emergency vehicles except that a blue flashing light must be displayed in place of an amber light.

13.06.080 Operation of Vehicles on Approach of Authorized Emergency Vehicles -
Penalty

1. Upon the immediate approach of an authorized emergency vehicle displaying a visible flashing, revolving, or rotating blue, white, or red light, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb or the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
2. If an authorized emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving, or rotating blue, white, or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer.
3. This section does not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highways.
4. Any individual who violates subsection 2 and causes an accident with an authorized emergency vehicle while the authorized emergency vehicle is displaying a visible flashing, revolving, or rotating amber, blue, white or red light is guilty of an infraction.

13.06.090 Written Report of Accident

1. Immediate notice of accident. The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of at least four thousand dollars, shall immediately give notice of the accident to the local police department if the accident occurs within the City. A driver who violates this section must be assessed a fine of fifty dollars. The name of the motor vehicle insurance policy carrier and the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor vehicle insurance policy carrier and the policy number of the owner of the vehicle, must be furnished to the law enforcement officer investigating the accident. If the driver does not have the required information concerning insurance to furnish to the investigating law enforcement officer, then within five (5) days of the accident the driver shall supply that information to the Driver's License Division in the form the division requires.
2. Officer to report. Every law enforcement officer, who in the regular course of duty investigates a motor vehicle crash required to be reported as provided in subsection 1 either at the time and at the scene of the crash or thereafter by interviewing the participants, or witnesses, shall make and promptly forward to the director of the

Department of Transportation a report of the accident in a format prescribed by the director.

3.
 - a. An accident notice is not required from any person who is physically incapable of making the report during the period of such incapacity.
 - b. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of a crash and there was another occupant in the vehicle at the time of the crash capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.
 - c. Whenever the driver is physically incapable of giving notice of a crash and such driver is not the owner of the vehicle, then the owner of the vehicle involved shall within five (5) days after learning of the crash give such notice and insurance information not given by the driver.
4. Garages to report. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a reportable accident as provided in Section 1 or of being struck by any bullet, shall report or cause a report to be made to a police officer within twenty-four (24) hours after such motor vehicle is received, and before any repairs are made to such vehicle, giving the registration number and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff or highway patrolman bearing information to show that the accident in which the vehicle was involved had been investigated. The police officer investigating any reportable accident shall attach a sticker to the window of any damaged vehicle showing that the accident in which such vehicle was involved has been investigated. If the vehicle does bear such a sticker the garage or repair shop need not make the report this section requires and may begin repairs immediately. After repairs have been made and before the vehicle is released, the sticker provided herein must be removed.
5. Wrecker and towing services to report. The person in charge of the operation of any commercial towing or wrecker service which causes any motor vehicle to be transported to a private residence or business other than a garage or repair shop which shows evidence of having been involved in a reportable accident as provided in Section 1 or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is transported. The report must give the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, along with the location such vehicle was transported to, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been

investigated. If the vehicle does bear such a sticker the towing or wrecker service need not make the report this section requires.

Chapter 13.09 – Traffic Control Devices

13.09.010 Authority to Install

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

13.09.020 Specifications for

All traffic-control signs, signals, and devices shall conform to the specifications approved by the director of the North Dakota Department of Transportation pursuant to North Dakota Century Code section 39-13-06. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the City. All traffic-control devices so erected and not inconsistent with the provisions of state law or this article shall be official traffic-control devices.

13.09.030 Flashing signals.

- (1) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign, it requires obedience by vehicular traffic as follows:
 - (A) Flashing red (stop indication): When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, or, if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed is subject to the rules applicable after making a stop at a stop sign.
 - (B) Flashing yellow (caution indication): When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such indication only with caution.
 - (C) Flashing red arrow and flashing yellow arrow indications have the same meaning as the corresponding flashing circular indications, except that they apply only to drivers of vehicles intending to make the movement indicated by the arrow.

13.09.040 Designation of walks, lanes, etc.

The chief of police or any person shall when authorized by the governing body:

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

13.09.050 Obedience to Traffic-Control Devices

1. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle.
2. No provision of this chapter for which traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person.
3. Whenever an official traffic-control device is placed in position approximately conforming to the requirements of state law, such devices shall be presumed to have been so placed by the official act or direction of lawful authority unless the contrary is established by competent evidence.
4. Any official traffic-control device placed pursuant to the provisions of state law and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of the chapter, unless the contrary is established by competent evidence.

13.09.060 Unauthorized Signs

1. No person may place, maintain, or display upon or in view of any highway, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.

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

13.09.070 Interference with Official Traffic Control Device or Sign

A person may not, without lawful authority, attempt to or in fact alter, deface, injure, knock down, remove, or interfere with the operation of any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

Chapter 13.12 – Speed Regulations and Care Required

13.12.010 Basic Rules – Penalty for Violation

No person may drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. Any person who shall drive a vehicle upon a highway or private or public property open to the public for the operation of motor vehicles without heed to the requirements or restrictions of this section has committed careless driving, and must be assessed a fee of thirty dollars (\$30.00).

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

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

13.12.020 Care required in operating vehicle.

Any person driving a vehicle upon a highway or private or public property open to the public for the operation of motor vehicles shall drive the vehicle in a careful and prudent manner, having due regard to the traffic, surface, and width of the highway and other conditions then existing, and shall give such warnings as are reasonably necessary for safe operation under the circumstances. No person may drive any vehicle upon a highway in a manner to endanger the life, limb, or property of any person.

13.12.030 Speed Limitations

1. Subject to the provisions of Chapter 13.12.010 and except in those instances where a lower speed is specified in this chapter, it presumably shall be lawful for the driver of a vehicle to drive the same at a speed not exceeding:
 - a. Twenty (20) miles an hour when approaching within fifty (50) feet of a grade crossing of any steam, electric, or street railway when the driver’s view is obstructed. A driver’s view is deemed to be obstructed when at any time during the last two hundred (200) feet of the driver’s approach to such crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred (400) feet in each direction from such crossing;
 - b. Twenty (20) miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours, unless a lower speed is designated by local authorities;
 - c. Twenty (20) miles an hour when approaching within fifty (50) feet and in traversing an intersection of highways when the driver’s view is obstructed. A driver’s view is deemed to be obstructed when at any time during the last fifty (50) feet of the driver’s approach to such intersection, the driver does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred (200) feet from such intersection;
 - d. Twenty (20) miles an hour when the driver’s view of the highway ahead is obstructed within a distance of one hundred (100) feet;

- e. Twenty-five (25) miles an hour on any highway in a business district or in a residence district or in a public park, unless a different speed limit is designated and posted by local authorities;
 - f. Fifty-five (55) miles an hour on gravel, dirt, or loose surface highways, and on paved two-lane county and township highways if there is no speed limit posted, unless otherwise permitted, restricted, or required by conditions;
 - g. Sixty-five (65) miles an hour on paved two-lane highways if posted for that speed, unless otherwise permitted, restricted, or required by conditions;
- 2. Differing limits may be established for different times of the day within highway construction zones which are effective when posted upon appropriate fixed or variable speed limit signs.
 - 3. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.
 - 4. In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes is prima facie lawful at the time and place of the alleged offense.

13.12.040 When Local Authorities May or Shall Alter Maximum Speed – Limits – Signs Posted

- 1. Whenever the City, on the basis of an engineering and traffic investigation, determines that the maximum speed permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the City may determine and declare a reasonable and safe maximum limit thereon which:
 - a. Decreases the limit at intersections;
 - b. Increases the limit within an urban district but not to more than fifty-five (55) miles per hour; or
 - c. Decreases the limit outside an urban district.
- 2. The City shall determine by an engineering and traffic investigation the proper maximum speed for arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the minimum speed permitted under this chapter for an urban district.

3. Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.
4. Any alteration of maximum limits on state highways or extensions thereof in the City may not be effective until such alteration has been approved by the director of the North Dakota Department of Transportation.
5. Not more than six such alterations as hereinabove authorized shall be made per mile along a street or highway except in the case of reduced limits at intersections, and the difference between adjacent limits may not be more than ten (10) miles per hour.

13.12.050 Speed Limitations Inapplicable to Whom – Liability of Exempt Driver for Reckless Driving

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

13.12.060 Minimum Speed Limits

1. An individual may not drive a motor vehicle at a reduced speed so as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
2. If the director of the North Dakota Department of Transportation and the superintendent of the North Dakota Highway Patrol, acting jointly, or the City, determines on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the safe, normal, and reasonable movement of traffic, the director and superintendent or the City may determine and declare a minimum speed limit below which an individual may not drive a vehicle except when necessary for safe operation or in compliance with law, and that limit is effective when posted upon appropriate fixed or variable signs.

13.12.070 Exhibition Driving and Drag Racing – Definitions – Penalty

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

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

13.12.080 Radar Evidence in Speed Violations

The speed of any motor vehicle may be checked by the use of radio microwaves or other electrical device. The results of such checks shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. The driver of any such motor vehicle may be arrested without a warrant under this section, provided the arresting officer is in uniform or displays the officer’s badge of authority; provided that such officer has observed the record of the speed of such motor vehicle by the radio microwave or other electric device, or has received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electrical device. Nothing herein shall affect the powers of cities or towns to adopt and use such device to measure speed.

Chapter 13.15 – Turning Movements

13.15.010 Course of travel

The chief of police or other authorized person may place official traffic-control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law.

13.15.020 Restrictions on turns

The chief of police or other authorized person may determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

13.15.030 Prohibited right, left or U-turns.

Whenever authorized signs are erected indicating that no right, left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

13.15.040 Required Position and Method of Turning

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

1. Right turns. Both the approach for a right turn and a right turn must be made as close as practicable to the right-hand curb or edge of the roadway;
2. Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn must be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered;
3. The City may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when such devices are so placed, no driver of a vehicle may turn it other than as directed and required by such devices.

13.15.050 Vehicle Turning Left

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

13.15.060 Limitations on Turning Around

1. The driver of any vehicle may not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.
2. No vehicle may be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

13.15.070 Turning Movements and Required Signals

1. No person may turn a vehicle, move right or left upon a roadway, or merge into or from traffic unless and until such movement can be made with reasonable safety without giving an appropriate signal in the manner hereinafter provided.
2. A signal of intention to turn, move right or left, or merge into or from traffic must be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning, moving right or left, or changing lanes.
3. No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
4. The signals required on vehicles by subsection 2 of Section 13.15.080 may not be flashed on one side only on a disabled vehicle, flashed as a courtesy or “do pass” signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

13.15.080 Signals by Hand and Arm or Signal Lamps

1. Any stop or turn signal when required herein must be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection 2.
2. Any motor vehicle in use on a highway must be equipped with, and required signals must be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four (24) inches (60.96 centimeters), or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet (4.27 meters). The latter measurement shall apply to any single vehicle and to any combination of vehicles.

13.15.090 Methods of Giving Hand and Arm Signals

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

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

13.15.110 Authority to sign

The chief of police or authorized person may determine and designate one-way streets or alleys and shall place and maintain official traffic-control devices giving notice thereof. No such designation shall be effective unless such devices are in place.

Chapter 13.18 – Special Stops

13.18.010 Authority to Designate Through Streets

The City governing body, with reference to highways under their jurisdiction, may, by proclamation, designate as through highways, any highway, street, or part thereof, and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

13.18.020 Through Streets Designated

The following streets and parts of streets are hereby declared to be through streets for purposes of this chapter: Highways No. 5 and 281.

Chapter 13.21 – Stop and Yield Intersections

13.21.010 Signs

All traffic control devices shall conform to state specifications.

13.21.020 Stop Signs and Yield Signs

1. Preferential right-of-way may be indicated by stop signs or yield signs as authorized in Chapter 13.18.010.
2. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersection roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways and shall yield the right of way to any other vehicle previously stopped for another stop sign at the intersection if the intersection is clear for each driver to proceed.

3. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop sign, or, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersection roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Provided, however, that if the driver is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.
4. Every stop sign and every yield sign must be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway.
5. Except when directed to proceed by a police officer or traffic control sign, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway.
6. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at a point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

13.21.030 Emerging from Alley or Driveway

The driver of a vehicle emerging from an alley, driveway, private road or building with a business or residential district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road, or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered when the driver has a view of approaching traffic thereon.

13.21.040 Stop When Traffic Obstructed

No driver may enter any intersection or a marked crosswalk or drive onto a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.

Chapter 13.24 – Miscellaneous Driving Rules

13.24.010 Driving Through Funeral or Other Procession

1. The driver of a vehicle may not drive between the vehicles comprising a funeral procession while those vehicles are in motion, except when authorized to do so by a law enforcement officer or when such vehicle is an emergency vehicle giving an audible or visible signal.
2. The driver of a vehicle not part of a funeral procession may not join a funeral procession for the purpose of securing the right of way.
3. The driver of a vehicle not in a funeral procession may not pass vehicles in such a procession on a two-lane highway or roadway.

13.24.020 Drivers in a Procession

1. Notwithstanding any traffic-control device, a law enforcement officer leading a funeral procession may proceed through any intersection or make any turns or other movements necessary while leading the procession. The officer, without regard to any traffic-control device, may direct other drivers not in the funeral procession to stop, turn, proceed, or make other movements. When leading the funeral procession, the officer must be in a marked patrol vehicle and the vehicle's lighted headlamps, taillamps, and top-mounted and grill-mounted signal lamps must be displayed at all times during the procession.
2. Notwithstanding any traffic-control device or provision governing the right of way, whenever a law enforcement officer leading a funeral procession enters an intersection, the remainder of the vehicles in the funeral procession may follow through the intersection. Each vehicle in the procession, however, must exercise reasonable care toward any other vehicle or pedestrian on the roadway.
3. Notwithstanding any traffic-control device or provision governing rights of way and subject to the following conditions, vehicles in a funeral procession have the right of way.
 - a. All vehicles in a funeral procession must display lighted headlamps, taillamps, and flashing emergency lamps.
 - b. All vehicles in a funeral procession must follow the preceding vehicle in the procession as closely as is safe and practicable.
 - c. The driver of a vehicle in a funeral procession shall yield the right of way to an approaching emergency vehicle when directed to do so by a law enforcement officer or when the vehicle is giving an audible or visual signal.
 - d. A vehicle that becomes separated from the funeral procession and the law enforcement escort, so that the procession is no longer continuous, must proceed to its destination in a safe and prudent manner obeying all traffic signals and general rules of the road.

13.24.030 Drive on right Side of Roadway – Exceptions

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

13.24.040 Passing Vehicles Proceeding in Opposite Direction

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

13.24.050 Overtaking a Vehicle on the Left

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

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and may not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

13.24.060 When Overtaking on the Right is Permitted

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

13.24.070 Limitations on Overtaking on the Left

No vehicle may be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable, and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching vehicle.

13.24.080 Further Limitations on Driving on Left of Center of Roadway.

1. No vehicle shall be driven to the left side of the roadway under the following conditions:
 - a. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
 - b. When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing; or

- c. When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.
2. The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in Chapter 13.24.030 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

13.24.090 No-Passing Zones

1. The director of the North Dakota Department of Transportation and the City governing body are hereby authorized to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
2. Where signs or markings are in place to define a no-passing zone as set forth in subsection 1, no driver may at any time drive on the left side of the roadway with such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.
3. This section does not apply under the conditions described in Chapter 13.24.030 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

13.24.110 Following Too Closely

1. The driver of a motor vehicle may not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.
2. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this does not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.
3. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles must be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision does not apply to funeral processions.

13.24.120 Restricted Access

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

13.24.130 Restrictions on Use of Controlled-Access Roadway

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

The City governing body shall erect and maintain official signs on the controlled-access roadway on which such regulations are applicable and when so erected no person may disobey the restrictions stated on such signs.

13.24.140 Closing Road Because of Hazardous Conditions – Posting of Official Traffic-Control Devices- Entering Closed Road Prohibited

1. The City may close a road temporarily due to hazardous conditions for the protection and safety of the public. If such a closing is made, the City shall make every reasonable attempt to notify the public and, when practical, may post appropriate official traffic-control devices to advise motorists of the closing.
2. If a road closure under subsection 1 has been announced to the public, an individual may not drive on the road.

13.24.150 Vehicle Entering Roadway

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

13.24.160 Vehicle Approaching or Entering Intersection

1. If a vehicle approaches or enters an intersection not controlled by an official traffic-control device and another vehicle approaches or enters from a different highway at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. If the intersection is T-shaped and not controlled by an official traffic-control device, the driver of the vehicle on the terminating street shall yield to the vehicle on the continuing street or highway.

13.24.170 Overtaking and Passing School bus

1. The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop the vehicle before reaching the school bus when

there is in operation on the school bus the flashing red lights or the stop sign on the control arm, and the driver may not proceed until the school bus resumes motion, the driver is signaled by the school bus driver to proceed, or the flashing red lights and the stop sign on the control arm are no longer actuated.

2. Every school bus shall bear upon the front and rear thereof plainly visible signs containing the word "SCHOOLBUS" in letters not less than eight (8) inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or for a school sanctioned activity, all markings thereon indicating "SCHOOLBUS" must be covered or concealed.
3. The operator of a school bus equipped with amber caution lights may activate those lights at a distance of not less than three hundred (300) feet nor more than five hundred (500) feet from the point where school children are to be received or discharged from the bus.
4. Every school bus must be equipped with a stop sign on a control arm and red visual signals, which may only be actuated by the driver of the school bus whenever the vehicle is stopped on the highway to receive or discharge school children.
5. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.
6. Every school bus must bear on the rear of the bus a plainly visible sign containing the words "THIS SCHOOLBUS STOPS AT ALL RAILROAD CROSSINGS".

13.24.180 Permitting use of Vehicle to Violate Chapter 13.24.170

The registered owner of a motor vehicle may not permit that motor vehicle to be operated in violation of Chapter 13.24.170. If a motor vehicle is seen violating Chapter 13.24.170, it is a disputable presumption that the registered owner of the motor vehicle permitted that violation. It is a defense to a charge of violating this section that the registered owner of the vehicle was not operating the vehicle, if that registered owner identifies the person authorized by that owner to operate the motor vehicle at the time of the violation of Chapter 13.24.170, or if that motor vehicle had been taken without the registered owner's permission. A person may not be charged both with violating this section and with violating Chapter 13.24.170. Violation of this section is not a lesser included offense of violation of section Chapter 13.24.170.

13.24.190 Limitations on Backing.

1. The driver of a vehicle may not back the same unless such movement can be made with safety and without interfering with other traffic.

2. The driver of a vehicle may not back the same upon any shoulder or roadway of any controlled-access highway.

13.24.210 Obstruction to Driver's View or Driving Mechanism

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

13.24.220 Opening and Closing Vehicle Doors

No person may open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor may any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

13.24.230 Coasting Prohibited

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

13.24.240 Following Emergency Vehicle Too Closely Prohibited

The driver of any vehicle other than one on official business may not follow closer than five hundred (500) feet behind an emergency vehicle displaying the appropriate light for that vehicle in an emergency. A driver of a vehicle other than one on official business may not stop the vehicle within two hundred (200) feet of any emergency vehicle stopped in answer to a 911 emergency.

13.24.250 Crossing Fire Hose

No vehicle may be driven over any unprotected hose of a fire department when laid down on any street, private road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

13.24.260 Garbage, Glass, Etc. on Highways Prohibited

1. An individual may not deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, rubbish, or any other litter. In addition, an individual may not deposit upon a highway any other substance likely to injure a person, animal or vehicle.
2. An individual who deposits, or permits to be deposited, upon a highway a destructive or injurious material shall immediately remove or cause to be removed the material.
3. An individual removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

13.24.270 Driving Through Safety Zone Prohibited

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

13.24.280 Alteration of odometer, tachometer.

A person may not willfully alter a motor vehicle odometer or other mileage recorder, hour meter or tachometer, or other hour recorder, or offer for sale or sell a motor vehicle knowing the odometer or other mileage recorder has been altered, for the purpose of deceiving another. If the person has previously been convicted of violating this section the City ordinance shall not control because the offense is a Class C felony. Otherwise this section shall be prosecuted as a class B misdemeanor as defined in the City of Rolla Ordinances.

13.24.290 Open Container Law - Penalty

1. A person may not drink or consume alcoholic beverages in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking. A person may not have in that person's possession on that person's person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It is unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing alcoholic beverages which have been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers. Any person violating the provisions of this section must be assessed a fee of fifty dollars (\$50.00); however the licensing authority shall not record the violation against person's driving record unless the person was the driver of the motor vehicle at the time that the violation occurred.

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

13.24.310 Permitting Unauthorized Minor to Drive

An individual may not cause or knowingly permit the individual's minor child or ward to operate a motor vehicle upon any highway if the minor is not authorized under this laws of North Dakota or this ordinance.

13.24.320 Permitting Unauthorized Person to Drive

An individual may not authorize or knowingly permit a motor vehicle owned by the individual or under the individual's control to be operated upon any highway by any individual who is not authorized under the laws of this state.

13.24.330 Use of Wireless Communications Device Prohibited

1. The operator of a motor vehicle that is part of traffic may not use a wireless communications device to compose, read, or send an electronic message.
2. Under this section:
 - a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
 1. Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
 2. Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
 3. Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, phones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;
 4. Voice or other data transmitted as a result of making a telephone or cellular phone call;
 5. Data transmitted automatically by a wireless communication device without direct initiation by an individual; or

6. A wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner.
 - b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.
3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

13.24.340 Use of an Electronic Communication Device by Minor Prohibited

An individual at least sixteen and under eighteen years of age who has been issued a class D license may not operate an electronic communication device to talk, compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.

13.24.350 Failure to Maintain Control

1. An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An individual is in violation of this section if that individual:
 - a. Commits an offense under this title and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted; or
 - b. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in Chapter 13.06.090 which resulted in property damage and, at the time the reportable accident occurred, the individual was engaged in the operation of a motor vehicle while distracted.
2. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of the traffic offense of failure to maintain control of a motor vehicle.
3. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
 - a. Is not necessary to the operation of the vehicle; and

- b. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle.

13.24.360 Vehicle Registration Provisions

It is a violation of this ordinance for any person to commit any of the following acts:

1. To operate, or for the owner thereof knowingly to permit anyone to operate, upon a highway any vehicle the registration of which has been cancelled, or revoked, or for which the registration fees as required in Title 39 of the N.D.C.C. have not been paid, or which does not have attached thereto and displayed thereon a number plate, plates, or validation tabs assigned thereto by the director of the Department of Transportation for the current registration period, subject to the exemptions allowed in Title 39 of the N.D.C.C.
2. To display or cause or permit to be displayed, or to have in possession, any registration card, registration number plate, or validation tabs knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered.
3. To lend any registration number plate, registration card, or validation tabs to any person not entitled thereto, or knowingly permit the use of any registration number plate or registration card by any person not entitled thereto.
4. Any person violating this ordinance is guilty of an infraction and is subject to a fine not to exceed fifty dollars (\$50.00).

13.24.370 Regulation of the Transport of Anhydrous Ammonia

1. Definitions:

- a. "Vehicle" – Any vehicle, trailer, or semitrailer propelled by mechanical, motor or muscular power.
 - b. "Tank truck" – Any motor vehicle used for the transportation of Anhydrous Ammonia, which for such purpose is provided with a tank or tanks mounted on the frame or chassis of such vehicle.
 - c. "Tank trailer" – Any vehicle without its own motive power but drawn by a motor vehicle, used for the transportation of Anhydrous Ammonia, and which for such purpose is provided with a tank or tanks mounted thereon.
 - d. "Tank semitrailer" – A vehicle of the trailer type having one or more axles and two or more wheels, so designed and used in conjunction with a motor vehicle that some parts of its own weight and that of its own load rests upon or is carried by another vehicle; used for the transportation of Anhydrous Ammonia and for which purpose is provided with a tank or tanks mounted thereon.
 - e. "Anhydrous Ammonia tank" – Any vehicle, tank truck, tank trailer, or tank semitrailer which can be used to store, haul, or dispense Anhydrous Ammonia.
2. Any vehicle, tank truck, tank trailer, tank semitrailer and Anhydrous Ammonia tank which has been loaded or filled with Anhydrous Ammonia shall be allowed to traverse to be within the city limits, only upon the following approved routes:
 - a. North Dakota State Highway No. 30

- b. North Dakota State Highway No. 5 and 281
 - c. Front Street South
 - d. 4th St. NE to Main Avenue
- 3. No Anhydrous Ammonia tank shall be parked or permitted to stand anywhere in the municipality, provided that the standing of such vehicle made necessary by mechanical trouble, traffic conditions, accident, or in obedience to the direction of a policeman or traffic signals shall not be considered a violation of this section.
 - 4. Every tank, truck, tank trailer and tank semitrailer operated within the corporate limits of the city shall be in good repair, clean and free from leaks, and must conform to the Department of Transportation regulations.
 - 5. Penalty – The maximum penalty for any person, co-partnership or corporation violating any of the provisions of this ordinance, shall upon conviction thereof be a fine of not more than Three Hundred Dollars (\$300.00).

Chapter 13.27 – Pedestrians

13.27.010 Pedestrian Obedience to Traffic Control Devices and Traffic Regulations

- 1. A pedestrian shall obey the instructions of any official traffic control device specially applicable to the pedestrian, unless otherwise directed by a police officer.
- 2. Pedestrians are subject to traffic-control and pedestrian-control signals as provided for in Chapter 13.09.050.

13.27.020 Pedestrians' Right-of-way in Crosswalks

- 6. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
- 7. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
- 8. Subsection 1 of this section does not apply under the conditions stated in subsection 2 of Chapter 13.27.030.
- 9. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the highway, the driver of any other vehicle approaching from the rear may not overtake and pass such stopped vehicle.

13.27.030 Crossing at other than Crosswalks

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

13.27.040 Drivers to Exercise Due Care

Notwithstanding other provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused, incapacitated, or intoxicated person.

13.27.050 Pedestrians to Use Right Half of Crosswalks

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

13.27.060 Pedestrians on Roadways

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

13.27.070 Pedestrians' Right-of-Way on Sidewalks

The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk.

13.27.080 Pedestrians Yield to Authorized Emergency Vehicles

1. Upon the immediate approach of an authorized emergency vehicle making use of an audible signal by bell, siren, or exhaust whistle and displaying a visible flashing revolving, or rotating blue, white or red light, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.
2. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

13.27.090 Blind Pedestrians' Right-of-way

The driver of a vehicle shall yield the right-of-way to any blind or visually impaired pedestrian carrying a clearly visible white cane or to an individual with a disability who is accompanied by an assistance dog.

13.27.110 Pedestrians Under Influence of Alcohol or Drugs

A pedestrian who is under the influence of alcohol or any drug to a degree which renders the pedestrian a hazard may not walk or be upon a roadway.

13.27.120 Pedestrians Soliciting Ride or Business

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

Chapter 13.30 – Motorcycles

13.30.010 Traffic Laws Apply to Persons Operating Motorcycles or Motorized Bicycles

Every person operating a motorcycle or motorized bicycle is granted all of the rights and is subject to all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter and except as to those provisions of these ordinances which by their nature can have no application. For purposes of this chapter, the term “motorcycle” means motorcycles and motorized bicycles.

13.30.020 Riding on Motorcycles

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

13.30.030 Operating Motorcycles on Roadways Laned for Traffic

1. All motorcycles are entitled to the full use of a lane and no motor vehicle may be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection does not apply to the operation of motorcycles two abreast in a single lane as authorized in subsection 4.
2. The operator of a motorcycle may not overtake and pass in the same lane occupied by the vehicle being overtaken.
3. No person may operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicle.
4. Motorcycles may not be operated more than two abreast in a single lane.
5. Subsections 2 and 3 do not apply to police officers in the performance of their official duties.

13.30.040 Clinging to Other Vehicles

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

13.30.050 Equipment for Motorcycle Riders

1. No person under the age of eighteen years may operate or ride upon a motorcycle unless a safety helmet meeting United States department of transportation standards is being worn on the head of the operator and rider, except when participating in a lawful parade. If the operator of a motorcycle is required to wear a safety helmet, any passenger must also wear a safety helmet regardless of the age of the passenger.

2. This section does not apply to persons riding within an enclosed cab or on a golf cart.
3. No person may operate a motorcycle if a person under the age of eighteen (18) years is a passenger upon that motorcycle and is not wearing a safety helmet as provided in subsection 1.

13.30.060 Frame-Chassis Requirements

1. The motorcycle frame-chassis, including the suspension components and engine mountings, must be of substantial construction, capable of supporting the combined weight of all vehicle components and riders for which the vehicle is designed, and withstand normal road shocks and operational stresses without constituting a hazard to the riders or other users of the highway.
2. The wheelbase may not be less than forty (40) inches.

13.30.070 Brakes

1. Every motorcycle must have either a split service brake system or two (2) independently actuated service brake systems in accordance with rules adopted by the director of the North Dakota Department of Transportation. Brakes must act on the front and rear wheels.
2. Every motorcycle must meet the requirements for brake system effectiveness, fade and partial systems as specified in rules adopted by the director of the North Dakota Department of Transportation.
3. All linkage, cables, pivots and bearings must be free of excess (high) friction, with the front wheel brake cable so located and secured as not to become pinched between fork and frame members when wheel is turned completely to the right or left.
4. Brake actuating devices must be in an accessible location, unencumbered by vehicle components, and so positioned that adequate leverage and safe operation is ensured. Service brake system controls and operation requirements must be in accordance with rules adopted by the director of the North Dakota Department of Transportation. A suitable mechanism shall be provided for the purpose of automatically returning the actuating devices to normal position upon release.
5. Motorcycle brakes must be capable of being adjusted automatically or manually with means provided to prevent unintentional adjustment.
6. Each three-wheel motorcycle must be equipped with a parking brake of a friction type with a solely mechanical means to retain engagement.

13.30.080 Tires, Wheels and Rims

1. Motorcycle tires must be of pneumatic design with a minimum width of two and twenty-five hundredths inches designed for highway use.
2. Tires on two-wheel motorcycles and single tire on the front or rear of a three-wheel motorcycle must have a load capacity rating at least equal to their respective gross axle weight ratings. Each tire on the front or rear axle of a three-wheel motorcycle must have a load capacity rating at least equal to one-half the front or rear axle gross axle weight rating.
3. Wheel rim diameters may not be less than ten inches (25.4 centimeters) or otherwise comply with title 49, Code of Federal Regulations, part 571, Federal Motor Vehicle Safety Standards, and must otherwise comply with applicable state standards, as promulgated by the director of the North Dakota Department of Transportation. Two-wheel motorcycles using low pressure tires are exempt from this subsection, if the inflated height of the tire is twenty inches or greater.

13.30.090 Steering and Suspension Systems

1. Motorcycle steering and suspension systems must be designed and engineered to provide the operator with the means of safely controlling vehicle direction under all maneuvers required for normal and safe operation.
2. The rear wheel of a two-wheel motorcycle must track behind a front wheel within one (1) inch with both wheels in a vertical plane when the vehicle is operating on a straight course. On a three-wheel motorcycle, the midpoint of the front or rear wheel track distance must be within one inch of the single front or single rear wheel track distance when the vehicle is proceeding on a straight course. The vehicle must be equipped with an adjustment feature that will provide proper wheel tracking.
3. The steering head must be provided with a bearing or similar device that will allow the steering shaft to turn freely in rotational motion only.
4. All motorcycles, except three-wheel motorcycles, must meet the following specifications in relationship to front wheel geometry:

Maximum Rake: 45 degrees - Trail: 14 inches positive

Minimum Rake: 20 degrees - Trail: 2 inches positive

Manufacturer's specifications must include the specific rake and trail for each motorcycle or class of motorcycles and the terms "rake" and "trail" must be defined by rules adopted by the director of the North Dakota Department of Transportation.

5. Handlebars must be of sturdy construction, adequate in size to provide proper leverage for steering and capable of withstanding a minimum force of one hundred (100) pounds applied to each handgrip in any direction. Handlebar grips may not be located above the shoulder height of the seated operator. The handlebars must provide a minimum of eighteen (18) inches between grip after final assembly.
6. Handlebars must be equipped with handgrips consisting of a material and surface patten to ensure firm, non-slip gripping for the driver.
7. Every motorcycle must be equipped with a suspension system and such suspension system must be applicable to at least the front wheel. The suspension system must be effective in reducing road shock and designed for the purpose of maximizing vehicle stability.

13.30.110 Fuel Systems

1. All fuel system components, including the tank, pump, tubing, hoses, clamps, and other components, must be securely fastened to the motorcycle so as not to interfere with vehicle operation and be leakproof when the vehicle is in its normal operating attitude.
2. Fuel lines must be positioned in a manner to prevent their contact with the engine head, manifold, exhaust system or other high temperature surfaces or moving components. The fuel system must be adequately vented and provided with a fuel shutoff valve located between the fuel supply and the engine.

13.30.120 Exhaust Systems - Prevention of Noise

Motorcycles must be equipped with an exhaust system incorporating a muffler or other mechanical device for the purpose of effectively reducing engine noise. Cutouts and bypasses in the exhaust system are prohibited. The system must be leakproof and all components must be securely attached to the vehicle and located so as not to interfere with the operation of the motorcycle. Shielding must be provided to prevent inadvertent contact with the exhaust system by the operator or passenger during normal operation. In addition, all motorcycles operating on streets and highways must meet the noise decibel limitations as established by the Environmental Protection Agency. No person may sell, offer for sale or install any noise suppressing system or device which will produce noise in excess of the maximum allowable decibel limitations of this section.

13.30.130 Mirrors

Every motorcycle must be equipped with at least one mirror of unit magnification, securely affixed to the handlebar and capable of adjustment within a range that will reflect an image that includes at least the horizon and the road surface to the rear of the motorcycle. Such mirror must consist of a minimum reflective surface of ten (10) square inches (64.52 square centimeters). All mirrors shall not contain sharp edges or projections capable of producing injury.

13.30.140 Fenders

Each wheel of a motorcycle must be equipped with fenders or otherwise covered by the body configuration. Fenders must be securely mounted and of sufficient size and strength to minimize water or other road surface substances from coming in contact with the vehicle riders, or throwing the road substances unreasonably to the rear of the vehicle. Fender design must be effective in reducing side spray.

13.30.150 Seat or Saddle

A seat or saddle securely attached to the vehicle must be provided for the use of the operator. The seat or saddle may not be less than twenty-five (25) inches (63.5 centimeters) above a level road surface when measured to the lowest point on top of the seat or saddle cushion with the operator seated in a driving position. The seat or saddle adjustment locking device must prevent relative movement of the seat from its selected and secured position under all normal vehicle operating conditions.

13.30.160 Chain Guard

Any drive chain on a motorcycle must be equipped with a chain guard or covering device to prevent chain or chain sprocket contact with any rider.

13.30.170 Vehicle Stand

All motorcycles designed with two wheels must be equipped with a retracting vehicle stand to permit the vehicle to remain in an upright stored position without outside assistance. The stand may be of a side or center type and shall be of substantial construction to hold the vehicle so equipped.

13.30.180 Glazing

When equipped, all motorcycle windscreens and windshields must meet the following standards:

1. The glazing material must comply with the standards promulgated by rule of the director of the North Dakota Department of Transportation.
2. The metal support must be of a material which shall bend rather than fragment under impact.
3. Covering material, other than glazing, must be beaded at the edges to prevent fraying.

13.30.190 Horn

Every motorcycle must be equipped with an operative horn in good working order. The horn shall operate from a control device located on the left handlebar.

13.30.200 Speedometer and Odometer

Every motorcycle must be equipped with a properly operating speedometer and odometer calibrated in miles (kilometers) per hour and miles (kilometers) respectively and must be fully illuminated when the headlamp is activated.

13.30.210 Lighting Equipment

1. A motorcycle must be equipped with lamps, reflective devices and associated equipment as required by and in compliance with standards adopted by the director of the North Dakota Department of Transportation.
2. A gearbox indicator light, if provided, must be located within the operator's field of vision.
3. A headlamp beam indicator light must be located within the operator's field of vision and illuminated automatically when the high beam of the headlamp is actuated.
4. A motorcycle must be equipped with at least one taillamp.
5. A motorcycle must be equipped with a stop lamp.

13.30.220 Lighting Equipment on Motor-Driven Cycles

1. The headlamp or headlamps upon every motor-driven cycle may be of the single-beam or multiple-beam type.
2. Every headlamp or headlamps on a motor-driven cycle must be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet [30.48 meters] when the motor-driven cycle is operated at any speed less than twenty-five miles [40.23 kilometers] per hour and at a distance of not less than two hundred feet [60.96 meters] when the motor-driven cycle is operated at a speed of twenty-five or more miles [40.23 or more kilometers] per hour, and at a distance of not less than three hundred feet [91.44 meters] when the motor-driven cycle is operated at a speed of thirty-five miles [56.33 kilometers] per hour.
3. In the event the motor-driven cycle is equipped with a multiple-beam headlamp or headlamps the upper beam must meet the minimum requirements set forth above and may not exceed the limitations set forth in subsection 1 of North Dakota Century Code section 39-21-20 and the lowermost beam must meet the requirements applicable to a lowermost distribution of light as set forth in subsection 2 of North Dakota Century Code section 39-21-20.
4. In the event the motor-driven cycle is equipped with a single-beam lamp or lamps the lamp or lamps must be so aimed that when the vehicle is loaded none of the high-intensity portion

of light, at a distance of twenty-five feet [7.62 meters] ahead, projects higher than the level of the center of the lamp from which it comes.

13.30.230 Passenger Seat

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

13.30.240 Footrests

Footrests must be provided for each designated seating position. Each footrest for a passenger must be so designated and constructed to support a static weight of two hundred fifty (250) pounds applied at the center of the foot pedal. Footrests must be so located to provide reasonable accessibility for the passenger's feet. Footrests must fold rearward or upward when not in use if the footrest protrudes beyond the width of the handlebars.

13.30.250 Highway Bars

If a motorcycle is so equipped, highway bars must have a maximum width of twenty-six (26) inches; shall be located less than fifteen (15) inches from the foot controls and may not interfere with the operation of the foot controls.

13.30.260 Equipment Approval

All motorcycle lighting devices, electrical systems, brake components, glazing materials and exhaust systems, incorporating a muffler or other mechanical exhaust device, required or optional, must be approved by the North Dakota Department of Transportation before they will be available for use within the state.

13.30.270 Other Applicable Law

All of the provisions of this chapter pertaining to the disposition of traffic offenses apply to this article.

Chapter 13.33 – Bicycles

13.33.010 Effect of Regulations

1. It is unlawful for any person to do any act forbidden or fail to perform any act required in this article. Any person who violates any of the provisions of this article may be assessed a fee not to exceed five dollars (\$5.00).

2. The parent of any child and the guardian of any ward may not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.
3. These regulations applicable to bicycles apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

13.33.020 Traffic Ordinances Apply to Persons Riding Bicycles

Every person riding a bicycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application.

13.33.030 Obedience to Traffic Control Devices

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

13.33.040 Riding on Sidewalks

1. The chief of police or authorized person may erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person and when such signs are in place no person may disobey the same.
2. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

13.33.050 Riding on Roadways and Bicycle Paths

1. An individual operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
2. A group of individuals riding bicycles upon a roadway may not ride more than two abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles.

13.33.060 Clinging to Vehicles

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle may attach the same or the person's self to any vehicle upon a roadway, except a sled being pulled by a snowmobile.

13.33.070 Carrying Articles.

No person operating a bicycle may carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

13.33.080 Lamps and other Equipment on Bicycles

1. Every bicycle when in use at nighttime must be equipped with a lamp on the front which emits a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type approved by the North Dakota Department of Transportation. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
2. Every bicycle must be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

13.33.090 Riding on Bicycles

1. A person propelling a bicycle may not ride other than upon or astride a permanent and regular seat attached thereto.
2. No bicycle may be used to carry more persons at one time than the number for which it is designed and equipped.

13.33.110 Bicycle Parking

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

13.33.120 Cycle Racing Prohibited

It shall be unlawful for any persons to run or engage in or cause to be run or be engaged in any bicycle or motorcycle race on any street, alley, highway or public place within the City, except when officially sanctioned to do so by the chief of police.

13.33.130 Point System Not Applicable

Any violation of this article, or any moving violation as defined in Chapter 13.51.100, or any nonmoving violation as defined in Chapter 13.51.090 when committed on a bicycle, an electric

bicycle, or a multi-passenger bicycle, is not cause for the licensing authority to assess points against the driving record of the violator pursuant to North Dakota Century Code section 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or non-criminal traffic violation is applicable to bicyclists.

13.33.140 Bicycle may be Impounded by Police

Any bicycle abandoned or left unclaimed upon the streets, alleys, or other public ways of the City for a period exceeding 10 days may be sold after the same has been held in storage by the City for a period of not less than 60 days.

13.33.150 Removal

The police department shall remove any bicycles abandoned or unclaimed for more than 10 days and shall take custody of the same, placing them in storage.

13.33.160 Notice of Removal

The police department shall give notice to the owners of abandoned or unclaimed bicycles, if the names and addresses of such owners are known, said notice containing the location where such bicycle is stored, the costs incurred for removal and the cost of storage.

13.33.170 Disposition

The police department may dispose of abandoned or unclaimed bicycles by conducting public sales from time to time. Any such property sold must be first duly noticed as provided in Chapter 13.33.180.

13.33.180 Contents of public sale notice

At least 10 days before the sale of a bicycle under this Chapter, the chief of police shall give notice of public sale by running the same in a newspaper of general circulation in the City. The notice of sale shall state:

- a. The sale is of abandoned or unclaimed bicycles.
- b. The bicycle has been held for more than 60 days by the City.
- c. A description of the bicycle, including serial number, make, model, and license number, if any, and any other information which will accurately identify the bicycle.
- d. The terms of sale.
- e. The date, time and place of sale.

13.33.190 Public Sale

The bicycles under this Chapter shall be sold to the highest and best bidder. Terms of sale shall be cash. The buyer shall pay to the City, in addition to the selling price, the necessary expense of taking, storing, and selling the bicycles. At the time of payment of the purchase price

and expenses, the City shall convey to the purchaser a merchantable title by bill of sale. Should the sale for any reason be invalid, the City's liability shall be limited to the return of the purchase price. The chief of police shall make a full report of the results of any sales conducted under this division within 30 days of such sales, shall file such report with the City auditor and shall turn over the net proceeds from such sales to the City Auditor, subject to the owner's right to recover. The owner of any property covered by this division may reclaim said property at any time prior to the sale upon payment of the necessary expense of taking and storage. At any time within six months after the sale, the owner of the property, upon written application, shall be entitled to receive the proceeds of the sale from the City, less the necessary expense of taking, storing, and selling the property.

Chapter 13.36 – Equipment of Vehicles

13.36.010 Windshield - Must be Unobstructed and Equipped with Wipers - Tinted Windows

1. Every motor vehicle must be equipped with a windshield. No person may drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows which obstructs the driver's clear view of the highway or any intersection highway.
2. The windshield on every motor vehicle must be equipped with a device for cleaning rain, snow or other moisture from the windshield, which must be so constructed as to be controlled or operated by the driver of the vehicle.
3. Every windshield wiper upon a motor vehicle must be maintained in good working order.
4. A person may not operate a motor vehicle with any object, material, or tinting displayed, affixed, or applied to the front windshield or any window unless the object, material, or tinting in conjunction with the windshield upon which it is displayed, affixed, or applied has a light transmittance of at least seventy percent or the object, material, or tinting in conjunction with a window other than the windshield upon which it is displayed, affixed, or applied has a light transmittance of at least fifty percent. This subsection does not apply to windows behind the operator if the motor vehicle is equipped with outside mirrors on both sides that meet Ordinance or N.D.C.C. requirements.
5. Subsection 4 does not apply to nonreflective sun screening or window tinting material above the AS-1 line or within the top five inches of the windshield.

13.36.020 Child Restraint Devices - Evidence

1. If a child, under eight years of age, is present in a motor vehicle, that motor vehicle must be equipped with at least one child restraint system for the child. However, a child under the age of eight who is at least fifty-seven inches [1.45 meters] tall is not required to use a

child restraint system, but must be correctly buckled in a safety belt. The child restraint system must meet the standards adopted by the United States Department of Transportation for those systems [49 CFR 571.213]. While the motor vehicle is in motion, the child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. While the motor vehicle is moving, each child of eight through seventeen years of age who is in the motor vehicle must be in an approved child restraint system in accordance with the manufacturer's instructions or correctly buckled in a safety belt. Use of child restraint systems and safety belts is not required in motor vehicles that were not equipped with safety belts when manufactured. If a child is being transported in an emergency situation, this section does not apply.

2. Violation of this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.

13.36.030 Use of Safety Belts - Enforcement

A driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or safety belt; to drivers of implements of husbandry; to operators of farm vehicles; to rural mail carriers while on duty delivering mail; to an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician states in a signed writing the nature of the condition and the reason restraint is inappropriate; to an occupant who is an emergency medical services personnel, during the provision of direct patient care; or when all safety belts are in use by other occupants. A physician, physician assistant, or advanced practice registered nurse who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability. A violation for not wearing a safety belt under this section is not, in itself, evidence of negligence. The fact of a violation of this ordinance is not admissible in any proceeding other than one charging the violation.

13.36.040 Drawbar or Connection Between Vehicles - Precautions Required

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

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

13.36.050 Modification of Motor Vehicle

1. An individual who operates a registered motor vehicle on a highway may not modify that vehicle unless the modification meets the following requirements:
 - a. Any modifying equipment must meet any other requirement applicable to a vehicle under North Dakota Century Code chapter 39-21.
 - b. If tires placed on a motor vehicle have a diameter greater than that of the tires on the motor vehicle as manufactured, those tires must be branded with a United States Department of Transportation tire identification number.
 - c. The maximum body height permitted for a motor vehicle is forty-two inches [106.68 centimeters]. Measurement of body height is made from a level ground surface to the floor of the cargo area.
2. An individual may not operate a registered motor vehicle on a highway unless the motor vehicle is equipped with front and rear bumpers. The height of the bumper must not exceed twenty-seven inches [68.58 centimeters] and this measurement is made from a level ground surface to the highest point on the bottom of the bumper. A horizontal drop bumper may be used to comply with this subsection and must be at least three inches [7.62 centimeters] in vertical width; extend the entire horizontal body width; and be horizontal, load bearing, and attached to the vehicle frame to effectively transfer impact when engaged.
3. Vehicles owned by law enforcement agencies, the military, firefighting agencies, and ambulances may be modified without regard to this section.

13.36.060 When Lighted Lamps are Required

Subject to the exceptions for parked vehicles, every vehicle upon a highway within this state must display lighted headlamps, taillamps and illuminating devices as required in this article for different classes of vehicles as follows:

1. At any time from sunset to sunrise, and every farm tractor upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise;
2. At any time when it is raining, snowing, sleeting or hailing or during other adverse driving conditions and these conditions do not render a person or vehicle on the highway clearly discernible at a distance of one thousand (1000) feet ahead; or
3. At any other time when visibility is impaired by weather, smoke, fog or other conditions or when there is insufficient light to render a person or vehicle on the highway clearly discernible at a distance of one thousand (1000) feet ahead.

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

13.36.070 Scope and Effect of Equipment Requirements – Penalty

1. It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which the actor knows to be in such unsafe condition as to endanger any person, or which the actor knows does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter, or which the actor knows is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this ordinance. Any person who, in violation of this ordinance, drives, or any owner who causes or knowingly permits to be driven upon a highway, any vehicle or combination of vehicles which that person knows is unsafe or improperly equipped is guilty of an infraction.
2. Nothing contained in this ordinance may be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.
3. The provisions of this ordinance with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or farm tractors except as specifically made applicable.
4. The provisions of this ordinance with respect to equipment required on vehicles do not apply to motorcycles or motor-driven cycles, except as specifically made applicable.
5. The provisions of this ordinance do not apply to vehicles moved solely by human power, except as specifically made applicable.

13.36.080 Muffler-Prevention of Noise and Smoke

Every motor vehicle must at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person may use a muffler cutout, bypass, or similar device upon a motor vehicle on a street, highway or private property open to vehicular traffic within the City.

13.36.090 Sound Amplification Devices

No driver of a vehicle shall operate, or permit the operation of any sound amplification system which can be heard outside the vehicle from 50 or more feet when the vehicle is being operated upon a street, highway, or private property open to vehicular traffic in the City, unless that system is being operated to request assistance or warn of a hazardous situation. This section shall not apply to authorized emergency vehicles or vehicles operated by gas, electric, communications, or water utilities. This section does not apply to the sound systems of vehicles used for advertising, or in parades, political or other special events that have been approved by the council and have the proper permits.

Chapter 13.39 – Regulating the Kinds and Classes of Traffic on Certain Roads

13.39.010 Load Restrictions Upon Vehicles Using Certain Roadways

When signs are erected giving notice thereof, no person may operate any vehicle with a gross weight in excess of the below weights at any time upon any of the following streets or parts of streets:

- a. State limits shall apply to Highways 30, 5, and 281, Front Street and 4th Street NE.
- b. State limits shall apply to 1st Ave NE and 1st Ave SE and the streets between them and Main Avenue
- c. A limit of 60% of State limits shall apply to all other streets.

Where limitations may be exceeded without probable damage, and in unusual circumstances, the Chief of Police may in his/her discretion issue a special permit

13.39.020 Commercial Vehicles Prohibited from Using Certain Streets

When signs are erected giving notice thereof, no person may operate any commercial vehicle exceeding the maximum indicated gross weight at any time upon any street or part of a street so designated except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the designation of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.

13.39.030 Size Restrictions Upon Vehicles Using Certain Highways

When signs are erected giving notice thereof, no person may operate any vehicle exceeding the dimensions specified by such sign or signs at any time upon any street or part of a street so designated.

13.39.040 Restrictions Upon Use of Streets by Certain Vehicles

1. The Chief of Police or other person authorized by the City Council may determine and designate those streets upon which shall be prohibited the use of the roadway by off-highway vehicles, all-terrain vehicles, snowmobiles, bicycles, horse-drawn vehicles or other types of traffic and shall erect appropriate signs giving notice thereof.
2. When signs are so erected giving notice thereof, no person may disobey the restrictions stated on such signs

Chapter 13.42 – Snowmobiles

13.42.010 Operation of Snowmobiles

For the purpose of this Chapter, the following definitions are hereby adopted:

1. “Operate” means to ride in or on and control the operation of a snowmobile.
2. “Operator” means every person who operates or is in actual physical control of a snowmobile.
3. “Owner” means a person, other than a lienholder, having the property in or title to a snowmobile and who is entitled to the use or possession of that snowmobile.
4. “Roadway” means that portion of a highway improved, designed or ordinarily used for vehicular travel.
5. “Snowmobile” means a self-propelled vehicle intended for off-road travel primarily on snow, having a curb weight of not more than one thousand two hundred pounds [544.31 kilograms], driven by track or tracks in contact with the snow, steered by a ski or skis in contact with the snow, and which is not wider than forty-eight inches [121.92 centimeters].

13.42.020 Rules for Operation of Snowmobiles

1. No person may operate a snowmobile upon the roadway, shoulder or inside bank or slope of any road, street or highway in this City except as provided pursuant to this article. No snowmobile shall be operated at any time within the right of way of any interstate highway except as provided herein.
2. A snowmobile may make a direct crossing of a street or highway provided:
 - a. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - c. The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
 - d. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
3. Operators of snowmobiles may use streets and alleys to leave the city limits and or to return to their places of residence, by the more direct route only, provided, however that all use, operation and driving of snowmobiles within the city limits after 10:30 P.M. and before 6:00 A.M., local time, is hereby prohibited.

4. No snowmobile may be operated unless it is equipped with at least one (1) headlamp, one taillamp, and brakes, all in working order, which conform to standards prescribed by rule of the director of the North Dakota Department of Transportation.
5. The emergency conditions under which a snowmobile may be operated other than as provided by this article shall be such as to render the use of an automobile impractical under such conditions at such period of time and location.
6. It is unlawful for any person to drive or operate any snowmobile in the following ways which are declared to be unsafe and a public nuisance:
 - a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 - b. In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
 - c. While under the influence of intoxicating liquor or a drug, or a combination thereof.
 - d. Without a lighted headlamp and tail lamp when required for safety.
 - e. In any tree nursery or planting in a manner which damages or destroys growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the snowmobile exhaust system.
 - g. Upon any private land when the private land is posted by the owner or tenant prohibiting trespassing. The name of the person posting the land must appear on each sign in legible characters. The posted signs shall be readable from the outside of the land and shall be placed conspicuously at a distance of not more than eight hundred eighty (880) yards (804.68 meters) apart, provided further that as to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes posting of all the enclosed lands.
7. It is unlawful for any person to operate a snowmobile without having in possession a valid driver's license or permit, except:
 - a. An individual under the age of ten may not operate a snowmobile unless the individual operates the snowmobile on private land.
 - b. An individual ten or eleven years of age may not operate a snowmobile unless the individual operates the snowmobile on private land or the individual is in the presence of a parent or guardian, has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department of the

State of North Dakota, and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department.

8. When snowmobiles are operated within the right of way of any road, street or highway of this state pursuant to this chapter, during times or conditions that warrant the use of lights, the snowmobile operator shall travel in the same direction as the direction of motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the snowmobile. An operator of a snowmobile traveling on a snowmobile trail maintained by the parks and recreation department which is within the right of way of any road, street, or highway of this state is exempted from this rule. The operator shall wait for all traffic to clear the roadway before crossing bridges and other similar structures.
9. It is unlawful for any person to operate a snowmobile within a highway right of way April 1 and November 1 of any year.
10. No snowmobile may be operated at any time within the right of way of any highway within this state while towing a sled, skid or other vehicle, unless the sled, skid or other vehicle is connected to the snowmobile by a hinged swivel and secure hitch.
11. No person under the age of eighteen years may operate, ride or otherwise be propelled on a snowmobile unless the person wears a safety helmet meeting United States Department of Transportation standards.

Chapter 13.45 – Off-Highway Vehicles

13.45.010 Off-highway vehicle registration.

Except as provided in this chapter, an individual may not operate an off-highway vehicle unless it has been registered.

13.45.020 Registration - Application - Issuance - Fees - Renewal.

1. Application for registration must be made to the department of transportation in the form the department prescribes and furnishes. The registration must state the name and address of every owner of the off-highway vehicle and be signed by at least one owner. A copy of the application is evidence of registration for the first thirty days after the date of application.
2. On receipt of an application and the appropriate fee, the department shall register the off-highway vehicle and assign a registration number and a certificate of registration. In addition, the department shall issue a decal made of reflectorized material which contains the registration number or the department shall issue one distinctive number plate upon the request of the owner. The operator of an off-highway vehicle shall securely affix and display the decal or the plate in a position as to provide clear legibility for identification.

The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner.

3. The owner of an off-highway vehicle shall renew the registration in the manner the department prescribes and pay the registration fees and applicable tax.

13.45.030 Exemption from registration - Exemption from fees.

1. Registration and payment of fees is not required of:
 - a. Off-highway vehicles owned and used by the United States or any state or its political subdivisions.
 - b. Off-highway vehicles registered in a foreign country and temporarily used in this state.
 - c. Off-highway vehicles validly licensed in another state and which have not been within this state for more than thirty consecutive days.
 - d. Off-highway vehicles used exclusively on private lands.
 - e. Off-highway vehicles used exclusively in organized track racing events.
2. If an off-highway vehicle is exempt from registration under subdivision b or c of subsection 1, the owner shall purchase an out-of-state public trails and lands access permit received upon payment of a ten dollar per-year fee.

13.45.040 Operation of Off-Highway Vehicle.

1. An individual may not operate an off-highway vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, an individual may not operate an off-highway vehicle within the right of way of any controlled-access highway. An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway. An individual may operate a registered off-highway vehicle on a paved highway designated and posted at a speed not exceeding fifty-five miles [88.51 kilometers] per hour. A licensed driver over sixteen years of age may operate a registered class III off-highway vehicle on a paved highway designated and posted at a speed not exceeding sixty-five miles [104.61 kilometers] per hour. An individual may not operate an off-highway vehicle on a paved highway if the vehicle is unable to attain a speed, on a paved level surface, of at least thirty miles [48.28 kilometers] per hour.
2. The operator of an off-highway vehicle may make a direct crossing of a street or highway only if:
 - a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The off-highway vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - c. The operator yields the right of way to all oncoming traffic which constitutes an immediate hazard; and

- d. In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.
3. Unless an individual is operating a class I off-highway vehicle, an individual may not operate an off-highway vehicle unless it is equipped with at least one headlamp, one taillamp, and brakes, all in working order, which conform to standards prescribed by rule of the director, except when under the direct supervision of an off-highway vehicle instructor teaching a certified off-highway vehicle safety training course, the requirement for a headlamp and taillamp may be waived.
4. The emergency conditions under which an off-highway vehicle may be operated other than as provided by this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question.
5. An individual may not operate an off-highway vehicle in the following ways, which are declared to be unsafe and a public nuisance:
 - a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to another person or the property of another person.
 - c. While under the influence of intoxicating liquor or a controlled substance.
 - d. Without a lighted headlamp and taillamp except when used by an off-highway vehicle instructor during a certified off-highway vehicle safety training course.
 - e. In any tree nursery or planting in a manner that damages growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the off-highway vehicle's exhaust system.
 - g. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred eighty yards [804.68 meters] apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of these signs at or on all gates through the fence or enclosure.
6. Except as provided in Chapter 13.45.050, an individual may not operate an off-highway vehicle without having in possession a valid driver's license or permit.
7. When an off-highway vehicle is operated within the right of way of any road, street, or highway, during times or conditions that warrant the use of lights by other motor vehicles, the off-highway vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the off-highway vehicle.
8. An individual may not operate an off-highway vehicle within the right of way of any highway while towing a sled, skid, or other vehicle, unless the object towed is connected to the off-highway vehicle by a hinged swivel and secure hitch.

9. An individual under the age of eighteen years may not operate, ride, or otherwise be propelled on an off-highway vehicle unless the person wears a safety helmet meeting United States department of transportation standards.
10. An operator of an off-highway vehicle may not carry a passenger while operating the vehicle unless the off-highway vehicle is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer.
11. Unless otherwise provided by law, an off-highway vehicle may be operated on an aggregate road surface only when designated as part of an active off-highway vehicle trail by the managing entity.
12. A person who is performing pest control or survey work for a political subdivision may operate an all-terrain vehicle on the bottom, backslope, inside slope, and shoulder of a highway other than a controlled-access highway.

13.45.050 Operation by persons under age sixteen.

Except as otherwise provided in this section, an individual under sixteen years of age who is not in possession of a valid operator's license or permit to operate an off-highway vehicle may not, except upon the lands of the individual's parent or guardian or as a participant in an organized sporting event that involves the use of off-highway vehicles, operate an off-highway vehicle. An individual at least twelve years of age may operate an off-highway vehicle if the individual has completed an off-highway vehicle safety training course prescribed by the director of the parks and recreation department and has received the appropriate off-highway vehicle safety certificate issued by the director of the parks and recreation department. The failure of an operator to exhibit an off-highway vehicle safety certificate on demand to any official authorized to enforce this chapter is presumptive evidence that that person does not hold a certificate.

13.45.060. Penalties.

Violation of subdivision b, c, or g of subsection 5 of section 13.45.040 is a class B misdemeanor. Violation of any other provision of section 13.45.040 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 13.45.010 or subsection 2 of section 13.45.030 is an infraction, for which a fee of fifty dollars must be assessed. If the individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed.

Chapter 13.48 – Criminal Traffic Violations

13.48.010 Persons Under the Influence of Intoxicating Liquor or any other Drugs or Substances not to Operate Vehicle – Penalty

1. a. A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:
 - (1) That person has an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.
 - (2) That person is under the influence of intoxicating liquor.
 - (3) That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
 - (4) That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.
 - (5) That individual refuses to submit to any of the following:
 - (a) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-06.2-10.2 if the individual is driving or is in actual physical control of a commercial motor vehicle; or
 - (b) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-20-01.
 - (6) Paragraph 5 does not apply to an individual unless the individual has been advised of the consequences of refusing a chemical test consistent with the Constitution of the United States and the Constitution of North Dakota.
 - b. The fact any person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section. It is an affirmative defense that a drug was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person. If the individual violated paragraph 1, 2, 3, or 4 of subdivision a and paragraph 5 of subdivision a and the violations arose from the same incident, for purposes of suspension or revocation of an operator's license, the violations are deemed a single violation and the court shall forward to the department of transportation only the conviction for driving under the influence or actual physical control.
 - c. The driver of a multi-passenger bicycle is subject to a violation of this section but a multi-passenger bicycle passenger may not be charged with a violation of this section.
2. An individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state who refuses to submit to a chemical test, or tests, is guilty of an offense under this section.

3. An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a seven-year period. All subsequent offenses are not governed by this ordinance.
4. Upon conviction of a second or subsequent offense within seven years under this section or equivalent ordinance, the court may order the motor vehicle number plates of all of the motor vehicles owned and operated by the offender at the time of the offense to be destroyed by the office of the police officer that made the arrest. The offender shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office and notify the department of the order. An offender who does not provide the number plates to the court at the appropriate time is subject to revocation of probation. The court may make an exception to this subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a co-owner of the motor vehicle, or if the offender is participating in the twenty-four seven sobriety program.
5. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection.
 - a. (1) For a first offense, the sentence must include both a fine of at least five hundred dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
(2) In addition, for a first offense when the convicted person has an alcohol concentration of at least sixteen one-hundredths of one percent by weight, the offense is an aggravated first offense and the sentence must include a fine of at least seven hundred fifty dollars and at least two days' imprisonment.
 - b. For a second offense within seven years, the sentence must include at least ten days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand five hundred dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least three hundred sixty days' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
 - c. The imposition of sentence under this section may not be deferred for an offense subject to this section.
 - d. If the offense is subject to subdivision a or b, a municipal court or district court may not suspend a sentence, but may convert each day of a term of imprisonment to ten hours of community service for an offense subject to paragraph 2 of subdivision a.
 - e. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this section.
 - f. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this

section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.

- g. If the individual has participated in the twenty-four seven sobriety program as a condition of pretrial release or for the purpose of receiving a temporary restricted operator's license, the sentencing court may give credit for the time the individual has already served on the twenty-four seven sobriety program when determining the amount of time the individual must serve on the twenty-four seven sobriety program for the purposes of probation, if that individual has not violated the twenty-four seven sobriety program before sentencing.
6. As used in subdivisions b of subsection 5, the term "imprisonment" includes house arrest. As a condition of house arrest, a defendant may not consume alcoholic beverages. The house arrest must include a program of electronic home detention and the defendant shall participate in the twenty-four seven sobriety program. The defendant shall defray all costs associated with the electronic home detention. For an offense under subdivision b of subsection 5, no more than ninety percent of the sentence may be house arrest.

13.48.020 Alcohol-related traffic offenses – Seizure, forfeiture, and sale of motor vehicles.

A motor vehicle owned and operated by an individual upon a highway or upon public or private areas to which the public has a right of access for vehicular use may be seized, forfeited, and sold or otherwise disposed of pursuant to an order of the court at the time of sentencing if the individual is in violation of Chapter 13.48.010 and has been convicted of violating Chapter 13.48.010 or equivalent ordinance at least one other time within seven years preceding the violation.

13.48.030 Partial suspension of sentence for drug court program, mental health court program, or veterans treatment docket completion.

If a defendant convicted of a misdemeanor under Chapter 13.48.010 is sentenced to drug court, mental health court, or veterans treatment docket and successfully completes a drug court program, mental health court, or veterans treatment docket, the court shall dismiss the case and seal the file.

13.48.035 Chemical Test for Intoxication, Implied Consent

The provisions of North Dakota Century Code Chapter 39-20 and all subsequent amendments are hereby adopted as if fully set out in this ordinance.

13.48.040 Reckless Driving - Penalty

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

1. Recklessly in disregard of the rights or safety of others; or

2. Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or the property of another.

Except as otherwise herein provided, any person violating the provisions of this section shall be guilty of a class B misdemeanor.

13.48.050 Accidents Involving Damage to Vehicle - Penalty

The driver of any vehicle involved in a crash resulting only in damage to the driver's vehicle or any other vehicle shall immediately stop the vehicle at the scene of the crash or as close thereto as possible but shall return to and remain at the scene of the crash until the driver has given the driver's name and address, and the name of the motor vehicle insurance policy carrier of the driver and owner, as well as the registration number of the vehicle and to render any person injured in the accident reasonable assistance. Every such stop must be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances is guilty of a class B misdemeanor.

13.48.060 Duty Upon Striking Fixtures Upon a Highway

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the driver's name and address and of the registration number of the vehicle the driver is driving and shall upon request and if available exhibit his operator's or chauffeur's license and shall make report of such accident when and as required in Chapter 13.06.090.

13.48.080 Penalty for Driving While License Suspended or Revoked - Impoundment of Vehicle Number Plates - Authority of City

1. Except as provided in Section 39-06.1-11 of the North Dakota Century Code, an individual who operates a motor vehicle on a highway or on public or private area to which the public has a right of access for vehicular use in this state while that individual's operator's license is suspended or revoked in any jurisdiction is guilty of a class B misdemeanor for the first, second or third offense within a five-year period. Any subsequent offense within the same five-year period is a class A misdemeanor and not governed by the Ordinance Code.
2. If the suspension or revocation was imposed for violation of Section 39-08-01 of the North Dakota Century Code or equivalent ordinance or was governed by Section 39-06-31 or Chapter 39-20 of the North Dakota Century Code, the sentence must be at least four (4) consecutive days' imprisonment and a fine as the court deems proper. The execution of sentence may not be suspended or the imposition of sentence deferred under Subsection 3 or 4 of Section 12.1-32-02 of the North Dakota Century Code. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.

3. A court may dismiss a charge under this Section upon motion by the defendant if the defendant's operator's license is reinstated within sixty days of the date of the offense and the defendant provides the court satisfactory evidence of reinstatement.
4. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be destroyed by law enforcement. If a period of suspension has been extended under subsection 6 of 39-06-17 of the North Dakota Century Code, the court may order the number plates destroyed under this subsection. The offender shall deliver the number plates to the court without delay at a time certain as ordered by the court following a conviction. The court shall deliver the number plates to law enforcement and notify the North Dakota Department of Transportation of the order. An offender who does not provide the number plates to the court at the appropriate time is subject to revocation of probation.
5. The municipal judge may order destruction of motor vehicle number plates by the office of the police officer that made the arrest in the manner provided in Subsection 4.

13.48.100 Driving Without a License

A person may not drive any motor vehicle upon a highway in this City unless such person has a valid license as an operator, or is expressly exempted from licensing requirements, by the laws of this state.

13.48.110 License to be Carried and Exhibited on Demand

An individual licensed to operate a motor vehicle shall have a physical or electronic operator's license in the individual's immediate possession at all times when operating a motor vehicle and shall physically surrender or electronically provide an operator's license, upon demand of any court, police officer, or a field deputy or inspector of the department. However, an individual charged with violating this section may not be convicted or assessed any court costs if the individual produces within fourteen days to the office of the prosecutor where the matter is pending a valid operator's license issued to that individual that is not under suspension, revocation, or cancellation at the time of the individual's arrest.

13.48.120 Driving Without Liability Insurance Prohibited – Penalty

1. A person may not drive, or the owner may not cause or knowingly permit to be driven a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle as follows: twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and subject to said limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one

accident, and twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

2. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence, including written or electronic proof of insurance, of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section. If that person produces satisfactory evidence, including written or electronic proof of insurance, of a valid policy of liability insurance in effect at the time of the alleged violation of this section to the office of the prosecutor where the matter is pending, that person may not be found in violation of subsection 1.
3. A person may be in violation of subsection 1 for failure to have a valid policy of liability insurance in effect under this section if the time of acquisition of the policy was after the time of the alleged incidence of driving without liability insurance. If the time of acquisition of the policy comes into question, the driver or owner has the burden of establishing the time of acquisition. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle.
4. For a second or subsequent violation of subsection 1, the court shall order the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the court. The person shall deliver the number plates to the court without delay at a time certain as ordered by the court. The court shall deliver the number plates to the office of the police officer that made the arrest and notify the department of the order. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.
5. For a first offense violation of subsection 1 the minimum fine is \$150 with a maximum fine of \$1,000.00. For a second or subsequent violation of subsection 1 the minimum fine is \$300 with a maximum fine of \$1,000.00 and/or 30 days imprisonment.

13.48.130 Transfer of Title of Vehicle – Endorsement Required – Certificate of Title
Delivered – New Certificate Obtained – Penalty.

1. The owner or transferor of a motor vehicle who transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle. The owner or transferor shall include on the assignment and warranty of title the name of the transferee and the selling price of the vehicle if applicable.
2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the transferee within thirty days of the date the vehicle was purchased.
3. If legal title passes to a lienholder rather than the transferee, the transferee shall endorse a statement that the lienholder holds the lien and shall send the certificate of title to the department with an application for a new certificate of title showing the names of the new owner and lienholder. The certificate of title when issued must be sent by the department to the lienholder or the department may use an electronic lien notification procedure in lieu of sending a certificate of title to a lienholder.

4. Within thirty days of receiving the title, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.
5. A violation of this section by an owner, lienholder, or transfer is a class B misdemeanor.

Chapter 13.51 – Disposition of Traffic Offenses

13.51.010 Halting Person for Violating Traffic Regulations - Duty of Officer Halting

Whenever an individual is halted for the violation of any of the provisions of this Ordinance, the officer halting the individual, except as otherwise provided in Chapter 13.03.020, or when the individual is under the influence of alcohol, may:

1. Take the name and address of the individual;
2. Take the license number of the person's motor vehicle; and
3. If a city ordinance or state criminal traffic violation, issue a summons or otherwise notify that person in writing to appear at a time and place to be specified in the summons or notice or, if a state noncriminal traffic violation, notify the person of the right to request a hearing when posting bond by mail.

A halting officer may not take a person into custody or require that person to proceed with the officer to any other location for the purpose of posting bond, where the traffic violation was a non-criminal offense. The officer shall provide the person with an envelope for use in mailing the bond.

13.51.020 Offenses under which person halted may not be entitled to release upon promise to appear.

1. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release the person upon a promise to appear and if the person has been halted and charged with any of the following offenses:

- a. Reckless driving.
- b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
- c. Driving while license or driving privileges is suspended or revoked.
- d. Driving without liability insurance.
- e. Failing to display a placard or flag while transporting explosive or hazardous materials.
- f. Operating an unsafe vehicle.

The halting officer forthwith shall take any person not released upon a promise to appear before the nearest or most accessible magistrate.

13.51.030 Hearing - Time - Promise of Defendant to Appear - Failure to Appear - Penalty

The time to be specified in the summons or notice provided for in Chapter 13.51.010 must be within thirty-five (35) days after the issuance of the summons or notice or earlier if so ordered by the municipal judge or if the person halted demands an earlier hearing. If the person halted desires, the person may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four (24) hours. The hearing must be before the municipal court. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, the officer shall release the person from custody. Any person refusing to give a written promise to appear must be taken immediately by the halting officer before the nearest or most accessible magistrate, or to such other place or before such other person as may be provided by a statute or ordinance authorizing the giving of bail. Any person willfully violating the person's written promise to appear is guilty of a class B misdemeanor, regardless of the disposition of the charge upon which the person originally was halted. The time limitations for a hearing as provided by this section do not preclude a recharging of the alleged violation if the person being charged receives a new summons or notice subject to the provisions of this section.

13.51.040 Traffic Violations Noncriminal – Exceptions – Procedures

1. An individual cited, in accordance with Chapter 13.51.010 and 13.51.030, other than an offense listed in Chapter 13.51.070, is deemed to be charged with a noncriminal offense.
 - a. The individual may appear before the designated official and pay the statutory fee for the violation charged at or before the time scheduled for a hearing.
 - b. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
2. If the individual is cited for a traffic violation under state law and posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the violation admitted. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official in accordance with Chapter 13.51.050.
3. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive, reduce, or suspend the statutory fee or bond, or both. If the individual cited follows the foregoing procedures, the individual is deemed to

have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation.

4. The bond required to secure appearance must be identical to the statutory fee established by Chapter 13.51.080.
5. Within ten days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the director:
 - a. Admission of the violation; and
 - b. In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine miles [14.48 kilometers] per hour and the miles [kilometers] per hour by which the speed limit was exceeded.
6. Under this Section, a citing police officer may not receive the statutory fee or bond.

13.51.050 Administrative Hearing - Procedures - Appeals - Stay Orders

1. An individual cited for a traffic violation, other than an offense listed in Section Chapter 13.51.070, who does not follow one of the procedures set forth in Chapter 13.51.040, may request a hearing on the issue of commission of the violation charged. The hearing must be held at the time scheduled in the citation, or at the time scheduled in response to the individual's request or at some future time, not to exceed ninety (90) days later, set at that first appearance.
2. At the time of a request for a hearing on the issue of commission of the violation, the person charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the violation charged.
3. If an individual cited for a traffic violation, other than an offense listed in Section Chapter 13.51.070, has requested a hearing on the issue of the commission of the violation charged and appears at the time scheduled for the hearing, and the state or City, as the case may be, does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.
4. If the official finds that the person had committed the traffic violation, the official shall notify the licensing authority of that fact, and whether the person was driving more than nine (9) miles per hour in excess of the lawful limit, stating specifically the miles (kilometers) per hour in excess of the lawful limit, if charged with a speeding violation, within ten (10) days of the date of the hearing. The fact that a person has admitted a violation, or has, in any proceeding, been found to have committed a violation, may not be referred to in any way, nor be admissible as evidence in any court, civil, equity or criminal, except in an action or proceeding involving that person's driving license or privilege.

5.
 - a. If an individual is aggrieved by a finding that the individual committed the violation, the individual may, without payment of a filing fee, appeal that finding to the district court for trial anew. If, after trial in the appellate court, the person is again found to have committed the violation, there is no further appeal. Notice of appeal under this subsection must be given within thirty (30) days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that the official adjudges that a violation has been committed. Otherwise, notice of appeal shall be in writing and filed with the official, and a copy of the notice must be served upon the prosecuting attorney. An appeal taken under this subsection may not operate to stay the reporting requirement of subsection 4, nor to stay appropriate action by the licensing authority upon receipt of that report.
 - b. The appellate court upon application by the appellant may:
 - i. Order a stay of any action by the director during pendency of the appeal, but not to exceed a period of one hundred twenty (120) days;
 - ii. Order a stay and that the appellant be issued a temporary restricted driving certificate by the director to be effective for no more than one hundred twenty (120) days; or
 - iii. Deny the application.

An application for a stay or temporary certificate under this subdivision must be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the director may charge a fee of three dollars (\$3.00). Any order granting a stay or a temporary certificate must be immediately forwarded forthwith by the Clerk of Court to the director, who immediately shall issue a temporary certificate in accordance with the order in the manner provided by law. A court may not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. An individual who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued pursuant to this subdivision is guilty of a traffic violation and must be assessed a fee of twenty dollars (\$20.00).
 - c. If the person charged is found not to have committed the violation by the appellate court, the clerk of court shall report that fact to the director immediately. If an appeal under this subsection is from a violation of a City ordinance, the city attorney shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.
6. The City must prove the commission of a charged violation at the hearing or appeal under this section by a preponderance of the evidence. Upon an appeal under subsection 5, the court and parties shall follow, to the extent applicable, the North

Dakota rules of Civil Procedure. If on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.

13.51.060 Failure to Appear, Pay Statutory Fee, Post Bond - Procedure - Penalty

If an individual fails to choose one of the methods of proceeding set forth in Chapters 13.51.040 and 13.51.050, the person must be deemed to have admitted to commission of the violation, and the official having jurisdiction shall report such fact to the director of the North Dakota Department of Transportation within ten (10) days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, if signing is required by law, or failure to appear, without paying the statutory fee or posting and forfeiting bond is a class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the charged violation.

13.51.070 Offenses Excepted

The procedures authorized under Chapters 13.51.040 and 13.51.050 may not be utilized by a person charged with one of the following offenses:

1. Driving or being in actual physical control of a vehicle in violation of Chapter 13.48.010.
2. Reckless driving in violation of Chapter 13.48.040.
3. Leaving the scene of an accident in violation of Chapter 13.48.050 and 13.48.060.
4. Driving while license or driving privilege is suspended or revoked in violation of Chapter 13.48.080.
6. Operating an unsafe vehicle in violation of subsection 1 of Chapter 13.36.070
7. Causing an accident with an authorized emergency vehicle or vehicle operated by or under the control of the department of transportation in violation of subsection 4 of Chapter 13.06.080.

13.51.080 Amount of Statutory Fees

The fees required for a noncriminal disposition pursuant to either Chapter 13.51.040 or 13.51.050 shall be as follows:

1. For a nonmoving violation as defined in Chapter 13.51.090, a fee of twenty dollars (\$20.00).
2. For a moving violation as defined in Chapter 13.51.100, a fee of twenty dollars (\$20.00), except for:

- a. A violation of Chapter 13.06.080 (Operation of Vehicles on Approach of Authorized Emergency Vehicles) a fee of fifty dollars.
 - b. A violation of Subsection 1 of Chapter 13.27.020 (Pedestrians' Right-of-way in Crosswalks), a fee of fifty dollars.
 - c. A violation of Chapter 13.36.020 (Child Restraint Devices), a fee of twenty-five dollars.
 - d. A violation of Chapter 13.24.330 (Use of Wireless Communications Device Prohibited) and 13.24.350 (Failure to Maintain Control), a fee of one hundred dollars.
 - e. A violation of subsection 2 of Chapter 13.24.140 (Closing Road Because of Hazardous Conditions – Posting of Official Traffic-Control Devices- Entering Closed Road Prohibited), a fee of two hundred fifty dollars.
 - f. A violation of Chapter 13.24.260 (Garbage, Glass, Etc. on Highways Prohibited), a fee of one hundred dollars.
 - g. A violation of Chapter 13.12.010 (Basic Rules), a fee of thirty dollars.
 - h. A violation of Chapter 13.12.020 (Care Required in Operating Vehicle), a fee of thirty dollars.
 - i. A violation of Chapter 13.24.170 (Overtaking and Passing School bus) and 13.24.180 (Permitting use of Vehicle to Violate Chapter 13.24.170), a fee of one hundred dollars.
3. For a violation of Chapter 13.12.030 a fee established as follows:

Miles Per Hour Over
Lawful Speed Limit

Fee

1 - 5	\$ 5.00
6 - 10	\$ 5.00 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10.00 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15.00 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25.00 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 40.00 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70.00 plus \$3/each mph over 35 mph over limit
46 +	\$100.00 plus \$5/each mph over 45 mph over limit

4. On a highway on which the speed limit is a speed higher than fifty-five miles [88.51 kilometers] an hour, for a violation of Chapter 13.12.030, a fee established as follows:

Miles Per Hour Over
Lawful Speed Limit

Fee

1 - 10	\$ 2.00/each mph over limit
11+	\$ 20 plus \$5/each mph over 10 mph over limit

5. On a highway on which the speed limit is posted in excess of sixty-five miles [104.61 kilometers] an hour, for a violation of Chapter 13.12.030, a fee of five dollars for each mile per hour over the limit.
6. For a violation of a school zone speed limit under subdivision b of subsection 1 of Chapter 13.12.030, a fee of forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit unless a greater fee would be applicable under this section.
7. For a violation of a highway construction zone speed limit under subsection 2 of Chapter 13.12.030, a fee of eighty dollars for one through ten miles per hour over the posted speed; and eighty dollars plus two dollars for each mile per hour over ten miles per hour over the limit, unless a greater fee would be applicable under this section. The fee in this subsection does not apply to a highway construction zone unless individuals engaged in construction are present at the time and place of the violation and the posted speed limit sign states "Minimum Fee \$80".

13.51.090 "Nonmoving Violation" Defined

For the purpose of Chapter 13.51.080, a "nonmoving violation" means a violation of Chapter 13.24.220, 13.24.310, 13.24.320 or the provisions of Chapter 13.54.

13.51.100 "Moving Violation" Defined

For the purpose of Chapter 13.51.080, a "moving violation" means a violation of Chapters 13.12, 3.15, 13.24, 13.30, 13.36, or 13.48 of this Ordinance, except those sections for which a specific penalty is provided and those sections which are specifically listed in Chapter 13.51.090.

13.51.110 General Penalty for Violation of Chapter

Any person violating any of the provisions of this Chapter for which another criminal penalty is not provided specifically is guilty of an infraction. As used in this section, the phrase "another criminal penalty" includes provision for payment of a fixed fee for violating another section of this chapter but does not include other administrative sanctions which may be imposed.

Chapter 13.54 – Parking

13.54.010 Angle Parking

The chief of police or other authorized city official may mark or sign streets upon which angle parking will be permitted (other than federal aid or state highways). Upon those streets which have been signed or marked for angle parking, no person may park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

13.54.020 Close to Curb

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

13.54.030 Time limit - Penalty

It shall be unlawful to park a motor vehicle on Main Avenue in the City of Rolla for more than twenty-four hours. On all streets in Rolla, it shall be unlawful to park a motor vehicle for more than seventy-two hours. It shall be unlawful to park a motor vehicle in an alley at any time, or in the City Parking Lot for more than twenty-four hours. During snow removal operation no motor vehicle shall be parked on a residential street or avenue between the hours of 8:00 o'clock A.M. to 6:00 o'clock P.M. No cars shall be left parked on Main Avenue between the hours of 2:00 o'clock A.M. to 6:00 o'clock A.M. Any person who shall violate this provision shall be punished by a fine of \$100.00 and taxable costs and shall stand committed until such fine is paid.

13.54.040 Parking on left side of street.

No vehicle shall stop with its left side to the curb.

13.54.050 Crossing not to be obstructed.

No vehicle, unless in an emergency or to allow another vehicle or pedestrian to cross its path, shall stop in the street except near to the right-hand curb thereof, so as not to obstruct a crossing.

13.54.060 Parking prohibited in specified places.

It shall be unlawful for the operator of a vehicle to stop, stand, or park such vehicles in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal: (1) Within an intersection; (2) on a crosswalk; (3) within one block of where fire apparatus has stopped in answer to a fire alarm; (4) within the painted portion of a curb; (5) within fifteen (15) feet of the driveway to any fire station; (6) within seven and one-half (7½) feet of a fire hydrant; (7) in front

of a private driveway; (8) on a sidewalk; (9) alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic; (10) in front of the entrance of any church during the time such church is open for service or meeting, or in front of the entrance to any theater, opera house, moving picture show, or auditorium at any time between "no parking" signs erected in front of such entrances, except a vehicle may stop in the line of traffic between such "no parking" signs when taking on or discharging passengers, and then only for such length of time as is necessary for such purposes; (11) such other places as may be designated by the police department or city council.

13.54.070 Motor vehicles left unattended.

No person having control or charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first setting the brakes thereon and stopping the motor of the vehicle, and, when standing upon a perceptible grade, without turning the wheels of such vehicle to the curb or the side of the street or highway.

13.54.080 Certain vehicles restricted.

It shall be unlawful for any person owning or having in his possession, or under his control, any vehicle or apparatus designed to be propelled by mechanical power which is incapable of operating and moving about by means of its own power, to park, or permit the same to be upon any public streets, walk, or berm within the city for a longer period than five hours.

13.54.090 Duty of police to remove certain vehicles.

Any of the vehicles found parked contrary to the provisions of this Chapter, shall be liable to be taken to and impounded at any garage in this City, as may be designated by the police officer of this City, without any liability whatsoever, for damages, expenses, or otherwise, attaching to or accruing to the City of Rolla or any official or police officer, and it shall be the duty of the police officer of the City of Rolla to impound any such vehicle. The garageman shall have a lien on all such vehicles so moved and impounded for the full amount of the charges and expenses of moving and impounding the same, and shall be entitled to the possession of the same until such charges and expenses are paid by the owner of the vehicles or his agent; if the same are not paid within ninety (90) days, the garageman shall give notice, by publishing the same in the official newspaper of said city that said vehicle, describing it, is impounded, and that unless the same is taken away, and all costs, fees and charges paid, he will sell the same at public venue to pay such costs, fees and charges. Such notice shall be published, and the sale conducted in the same manner as prescribed by statute for the sale of personal property on foreclosure of chattel mortgages by advertisement. All money so received by the garageman for the sale of such vehicles shall be paid to the City Treasurer at once. The fees and charges for impounding any such vehicle or vehicles shall be paid out of the general fund of the city upon the presentation and allowance of the same by the City Council. The City police or other person impounding such vehicle, shall within five days thereafter, notify the owner or agent of the owner of such vehicle if the same is known to him, that such vehicle has been impounded.

13.54.110 Stopping, Standing or Parking Prohibited in Specified Places

No person may stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within ten (10) feet of a fire hydrant;
5. On a crosswalk;
6. Within ten (10) feet of a crosswalk at an intersection;
7. Within fifteen (15) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within fifteen (15) feet of points on the curb immediately opposite the ends of a safety zone, unless the North Dakota Department of Transportation or the City indicates a different length by signs or markings;
9. Within fifteen (15) feet of the nearest rail of a railroad crossing;
10. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted;
11. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel; or
14. At any place where official signs prohibit stopping.

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

13.54.120 Additional Parking Regulations

1. Except as otherwise provided in this ordinance, every vehicle stopped or parked upon a two-way roadway must be so stopped or parked with the right-hand wheels of such vehicle parallel to and within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.
2. Except where otherwise provided by ordinance, every vehicle stopped or parked upon a one-way roadway must be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve (12) inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.
3. The City governing body may permit angle parking on any roadway, except that angle parking is not permitted on any federal-aid or state highway without first obtaining the written authorization of the director of the North Dakota Department of Transportation.

13.54.130 Stopping - Parking - Certain Purposes Prohibited

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

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

13.54.140 Stopping - Parking - Congested - Hazardous Places

The City Chief of Police or other person designated by the City governing body is hereby authorized to determine and designate by proper signs, places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

When official signs are erected at hazardous or congested places as authorized herein, no person may stop, stand or park a vehicle in any such designated place.

13.54.160 Parking Privileges for Mobility-Impaired - Certificate - Revocation

1. A mobility-impaired individual who displays prominently upon a motor vehicle parked by that individual or under that individual's direction and for that individual's use, the distinguishing certificate or license plates issued for mobility impaired individuals or a

disabled veteran plate issued by the North Dakota Department of Transportation is entitled to courtesy in the parking of the motor vehicle. However, the city may prohibit, by ordinance, parking on any highway for the purpose of creating a fire lane or to provide for the accommodation of heavy traffic during morning and afternoon rush hours. The privileges extended to a mobility-impaired individual do not apply on a highway if parking is prohibited.

2. A mobility-impaired individual as used in this section includes an individual who uses portable oxygen; requires personal assistance or the use of crutches, a wheelchair, or a walker to walk two hundred feet [60.96 meters] without rest; is restricted by cardiac, pulmonary, or vascular disease from walking two hundred feet [60.96 meters] without rest; has a forced expiratory volume of less than one liter for one second or an arterial oxygen tension of less than sixty millimeters of mercury on room air while at rest and is classified III or IV by standards for cardiac disease set by the American Heart Association; has an orthopedic, neurologic, or other medical condition that makes it impossible for the person to walk two hundred feet [60.96 meters] without assistance or rest; or is a disabled veteran issued a plate by the North Dakota Department of Transportation.
3. A certificate issued by the North Dakota Department of Transportation must be hung from the rearview mirror of the motor vehicle whenever the vehicle is occupying a space reserved for the mobility impaired and is being used by a mobility-impaired individual or another individual for the purposes of transporting the mobility-impaired individual. No part of the certificate may be obscured. A fee of five dollars may be imposed for a violation of this subsection.
4. If a law enforcement officer finds that the certificate is being improperly used, the officer may report to the director of the North Dakota Department of Transportation any violation and the director may, in the director's discretion, remove the privilege. An individual who is not mobility impaired and who exercises the privileges granted a mobility-impaired individual under subsection 1 is guilty of an infraction for which a fine of one hundred dollars must be imposed.
5.
 - a. If a public or private entity designates parking spaces for accessible parking, the spaces must comply with the requirements of the Americans with Disabilities Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36] and must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, each reserved space must be indicated by a sign bearing the international symbol of accessibility for the mobility impaired. The sign must indicate that unauthorized use of the space is a nonmoving violation for which a fee of one hundred dollars must be imposed.
 - b. For any event, a public or a private entity temporarily may reserve additional accessible parking spaces for use by motor vehicles operated by a mobility-impaired individual. In that case, each temporarily reserved space must be

indicated by a sign bearing the international symbol of accessibility for the mobility impaired at least four hours before the event.

- c. A parking space clearly identified as reserved for the mobility impaired is considered designated and reserved for the mobility impaired and is sufficient basis for the enforcement of this section if the parking space has two of the following requirements:
 - (1) Blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space;
 - (2) A sign bearing the international symbol of accessibility for the mobility impaired; or
 - (3) Notice that unauthorized use of the space is a nonmoving violation for which a fee of one hundred dollars must be imposed.
 - d. Except for a temporarily reserved parking space for the mobility impaired, a sign posted must be immovable.
 - e. A law enforcement officer shall enforce this section in any parking lot or parking facility, whether publicly or privately owned.
6. If the designated mobility-impaired parking spaces are occupied or unavailable, a motor vehicle displaying the distinguishing certificate or license plates issued for mobility impaired individuals by the North Dakota Department of Transportation or a disabled veteran plate issued by the North Dakota Department of Transportation may park at an angle and occupy two standard parking spaces.
7. An individual may not stop, stand, or park any vehicle in any designated parking space that is reserved for the mobility impaired unless the vehicle displays a mobility-impaired identification certificate issued by the North Dakota Department of Transportation to a mobility-impaired individual. A mobility-impaired individual may not permit the use of a certificate issued under this section by an individual who is not mobility impaired when that use is not in connection with the transport of the mobility-impaired individual. The registered owner of a vehicle may not allow that vehicle to be used in a manner that violates this subsection. Proof of intent is not required to prove a registered owner's violation of this subsection. The registered owner, however, may be excused from a violation if the owner provides the citing authority with the name and address of the individual operating the vehicle at the time of the violation. A vehicle may temporarily use a space reserved for a mobility-impaired individual without a mobility-impaired certificate for the purpose of loading and unloading a mobility-impaired individual. A violation of this subsection is a nonmoving violation for which a fee of one hundred dollars must be imposed.
8. A motor vehicle licensed in another state which displays a special authorized vehicle designation issued by the licensing authority of that state for vehicles used in the transportation of a mobility-impaired individual must be accorded the same privilege

provided in this section for similar vehicles licensed in this state if the laws of the other state provide the same privileges to North Dakota motor vehicles displaying the special identifying certificate authorized in this section.

9. An entity that violates the requirements of Subsection 5 is guilty of an infraction if the entity does not comply with Subsection 5 within sixty days after receiving official notification of the violation.

13.54.170 Reserved Parking Areas

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

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

13.54.180 Time Limit Parking Zones

When signs are erected giving notice thereof, no person, firm or corporation shall park or leave standing, either attended or unattended any motor vehicle for more than the amount of time posted. Only the city Chief of Police or other person authorized by the City Council may establish such time parking zones or erect signs giving notice.

13.54.190 No Parking Signs - Penalty

Whenever no parking signs, street cleaning signs, snow removal, or regulated parking signs have been posted on any street in the City of Rolla, it shall be unlawful, two hours after such posting, to park or leave parked any motor vehicle contrary to such posted sign. Any person who shall violate this provision shall be punished by a fine of \$100.00 and taxable costs and shall stand committed until such fine is paid.

Chapter 13.57 – NDCC

13.57.010 Sections not adopted

The sections of Title 39 of the North Dakota Century Code not expressly adopted in this title, are not adopted by reference.

TITLE 14 – PUBLIC UTILITIES

Chapter 14.02 – Street Lights

14.02.010 Street Lighting Service Rates

Street Lighting Service rates shall be fixed by resolution of the City Council and the city reserves the right to change the rates, as it deems best. The resolution fixing street Lighting Service rates and charges shall be kept on file in the office of the City Auditor and shall be open for public inspection.

Chapter 14.04 – Garbage & Recycling

14.04.010 Garbage Defined

The term “Garbage” as used in this ordinance, is defined to be all manner of kitchen and household refuse, all offal including both animal and vegetable matter, metal and glass food containers from which the food has been removed, metal cans commonly known as tin cans, waste paper and paper containers, and all other waste material and things produced or accumulated in the operation of kitchens or places where food is served, produced or consumed, including all waste matter from homes, store or places of business or any nature, including rubbish, leaves, and waste paper and all manner of refuse including ashes, which may constitute a menace to public health or create a fire hazard or an unsightly condition.

14.04.030 Garbage & Recycling Rates

Garbage and recycling rates shall be fixed by resolution of the City Council and the city reserves the right to change the rates, as it deems best. The resolution fixing garbage and recycling rates and charges shall be kept on file in the office of the City Auditor and shall be open for public inspection. Commercial and residential rates may be different.

14.04.040 Garbage surcharge

Garbage surcharge rates for commercial properties shall be fixed by resolution of the City Council and the city reserves the right to change the rates, as it deems best. The resolution fixing garbage surcharge rates shall be kept on file in the office of the City Auditor and shall be open for public inspection.

14.04.050 Storage Receptacles

Every person, firm, or corporation, is hereby prohibited from storing or keeping garbage within the corporate limits of the City of Rolla unless the same is stored and kept in a receptacle provided by the City of Rolla or its agent, provided with a cover and handle and kept closed to

prevent the entrance of flies and other insects, and shall be placed at alleys or at curbs for street pickup just before collection day.

14.04.090 Acts Prohibited

No person shall: 1) place, deposit or dump in any City recycling or compost receptacle or dumpster any material, thing, item or object other than that which is indicated as allowable on the receptacle or dumpster, or an official sign posted on or in the vicinity of any such receptacle or dumpsters; 2) deposit garbage in another's garbage receptacle or dumpster without the owner's permission; and 3) deposit garbage or permit garbage to be deposited upon any street, alley, public way or public space, or on any private lot, piece or parcel of ground within the corporate limits of the City of Rolla except as provided by law.

14.04.110 Collection of Garbage

The City of Rolla or its designated agent shall collect from both the residential area and the business area of the City, all garbage accumulated in accordance with the provisions of this Chapter hereof, and shall haul the same to a garbage disposal area. The garbage will be picked up and hauled away at least once each week, when reasonably possible and oftener from special locations so designed by the City Council, or as often as is necessary to maintain and preserve the health of the community, except where streets or alleys are in a temporary condition which makes it impossible to do so. Garbage service may be shut off at the discretion of the City Council with the main consideration for shut off being whether the property receives water and sewer services. If no water and sewer services are received the City Council may grant the request for shut off.

14.04.130 Garbage Fund

The funds collected for garbage shall be kept in a separate accounting fund to be known as the Garbage Disposal Fund.

Chapter 14.06 – Utility Established

14.06.010 Water and Sewer Department Established

There is hereby established and created within the City of Rolla, North Dakota a department to be known as the City Water and Sewer Department, which shall have general charge of all plants, systems, works, instrumentalities, equipment, materials, supplies, sewage disposal plants, lagoons, intercepting sewer, trunk connections, sewer and water mains, filtration works, pumping stations and all parts and appurtenances of the foregoing which are used or useful in connection with the obtaining of a water supply and the conservation, treatment and disposal of water for public and private uses, and/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.

14.06.030 Scope of Utility

The properties of said utility and all future improvements, extensions and enlargements thereof, together with all cash and other assets held in the city's Water Fund and Sewer Utility Fund and all moneys to be derived thereafter from the services, facilities, products and by-products of 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.

Chapter 14.08 – Water Service

14.08.010 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.

14.08.030 Superintendent of City Water and Sewer Department

A Water and Sewer Utility Superintendent shall be appointed by the governing board. If he is a part time employee, and if he is also a city employee in some other capacity, only his services respecting the utility shall be an operating charge of the system. He shall keep such books and records of matters pertaining to the operation of the system, as are necessary to show the operation and condition thereof. He shall at all times be subject to the supervision and direction of the governing board. He shall perform such other duties and have such other powers and authority as are hereinafter provided for.

14.08.050 Same: Reports

Such Superintendent shall make monthly reports to the governing body concerning the operation of this department.

14.08.090 Water and Sewer 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 deposited in lieu of assessment, \$250.00 for water and \$250.00 for sewer. In case of a major extension of the water and sewer mains, over 500 ft. in length, done at the cost of the application, without assessment, the deposit shall be \$0.50 per lineal foot of sewer main and \$0.50 per lineal foot of watermain. The \$250.00 minimum for water and the \$250.00 minimum for sewer shall still be applicable to extensions under 500 ft. All such money paid and received pursuant to the provisions of this section shall be placed in the

water fund and sewer utility fund and shall be expended in accordance with the purposes of such fund.

14.08.112 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 Chapter 14.08.142.

14.08.114 Service Outside City Limits - Prohibited - Exception

No application for water and/or sewer service outside the city limits or the city shall be approved and no person outside of the corporate limits 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 except under the following conditions:

1. The City Council must first find that in its judgment significant benefits, such as control of pollution or other significant benefits will result to the City as a whole.
2. The applicant must file an application in writing agreeing to pay a hook on charge as set by resolution by the City Council. For business or commercial properties, the City council will set by resolution, a hook on charge based on load and other material factors, with a minimum for business or commercial hook on charge of \$500.00 sewer and \$500.00 water; the applicant to agree to pay all construction expense, and all repairs and maintenance expense for his pipes and extensions, and to agree that the City may shut off his service at any time for repairs or adjustment of the municipal system.
3. The applicant must agree in his application to pay the regular monthly utility charges as established by the City council ordinances and regulations.
4. The applicant must secure the approval of an engineer satisfactory to the City of Rolla, as to his design and specifications, and such design must meet City requirements and City Council approval, and satisfactory arrangements for inspection.
5. The applicant must agree in his application that the subject property, describing it, shall thereafter be subject to a charge or an assessment by the City Council, collectible in a Court of law as a personal obligation of the owner of the property, and assessable against the property the same as tax by certification of the amount to the City Auditor, for a fair share of a future improvement to the utility system to which he is connected, whether the same is financed by bond issue, special assessments, or otherwise, the share of such improvement costs to be determined by the ratio of square feet of the lots of the subject property to the square feet of the total property assessed for such improvement costs.
6. The City Council issues a permit after compliance with the foregoing requirements.

14.08.116 Service in Un-platted 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 Register of Deeds Office of Rolette County, North Dakota.

14.08.118 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 property owner and all extensions made to such plumbing, as well as all repairs, shall be borne entirely by the property owner, although such plumbing and services as well as the meters shall at all reasonable times be subject to inspection by duly authorized representatives of the municipality. Any repairs found to be necessary by such representatives shall be made promptly, or the municipality will discontinue service.

The property owner is responsible for the water service lateral which connects their property to the curb cock. The curb cock is part of the water service lateral and is also the property owner's responsibility. The property owner is required to fix any improper connections.

The City of Rolla and a property owner may make a cost sharing arrangement for the cost of original installation of water service if the City Council finds that the connection would benefit the City of Rolla as a whole and not just one or a couple residents. The City of Rolla is not obligated to enter into such an agreement, however, and has the authority to set terms, rules, and regulations related to such arrangement.

All services shall be constructed by licensed plumbers at the property owner's expense, and each service shall be maintained and repaired by the property 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 property owner. Services means the service line running from the point of connection with the city main to the property owner's premises.

14.08.120 Water Meters - Checked - Fees

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

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

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

14.08.124 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 15th day for the month next succeeding such defective service, or be deemed waived by the claimant; and if such claim is so filed, it shall be the duty of the Utility Superintendent to investigate the facts alleged in such claim and determine the amount, if any which should be refunded to such claimant by reason of such defective service and report such determination to the governing body, and, if approved by that body, such amount shall be allowed as credit on the following bill or paid as other claims, but no claim shall be made against the municipality for any fire or any injuries to the person or property of any consumer of water or sewer service under the provisions hereof.

14.08.126 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.

14.08.128 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 in accordance with Chapter 14.17.010.
3. Non-liability of City for Deficient Supply or Quality of Water. It is expressly provided that the city shall in no event be or become liable to any consumer of water for a deficiency in the supply of water or the quality thereof, whether by shutting off the same to make repairs or to construct new work or for any other cause whatsoever.
4. Shutting Off Water - Charge For. The water department shall make a charge of \$25.00 each for shutting off or turning on water services at the request of a resident. If the resident's water is shut off for delinquent payment, Ordinance 14.17.010 shall apply.
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, 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 (includes volunteer firemen) 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.

14.08.130 Connection to be Supervised by Municipal Employees

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

14.08.132 Service Pipes Specifications

All service pipes connected with the water and sewer utility shall be laid 7 feet and 6 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.

14.08.134 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.

14.08.136 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 pound per square inch.

14.08.138 Use of Water During Fire - Unlawful

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

14.08.140 Waterworks Customers May Lay Larger Pipes with Hydrants - When

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

14.08.142 Rates and Charges

1. 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. The City shall add a penalty if the payment is not received by the fifteenth of each month. The penalty shall be established by the City Council.
2. Each kitchen in occupied and unoccupied apartment units shall be assessed no less than the minimum monthly water charge each month.
3. Each mobile home, whether occupied or unoccupied, shall be assessed no less than the minimum monthly water charge each month.

14.08.143 Water Improvement

Water Improvement rates shall be fixed by resolution of the City Council and the city reserves the right to change the rates, as it deems best. The purpose of this utility charge is to pay the debt of the 2015 Water Plant Improvement Project. The estimated final debt payment date is 2055.

14.08.144 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.

14.08.146 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.

14.08.148 Excavation

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.

14.08.150 Restriction of Use of Water

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

Chapter 14.10 – Regulation of Sewer Use

14.10.010 Purpose and Definitions

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

Sewer Main Line is defined as a utility pipe that carries wastewater from a property's sewer lateral to the lagoon, via a sewer force or gravity main.

Sanitary Sewer Lateral is defined as a pipe that carries wastewater from a property to the sanitary sewer main line in the street. Every property receiving sewer service from the City has at least one sanitary sewer lateral.

14.10.020 Use of Public Sewers Required

1. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City of Rolla, North Dakota, or in any area under the jurisdiction of said City of Rolla, North Dakota, any human or animal excrement, garbage or other objectionable waste.
2. It shall be unlawful to discharge to any natural outlet within the City of Rolla, North Dakota, or in any area under the jurisdiction of said City of Rolla, North Dakota, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

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

14.10.030 When Private Sewage Disposal Permitted

1. Where a public sanitary or combined sewer is not available, 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 not to exceed \$250.00 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 24 hours of the receipt of notice by the Superintendent.
4. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations and/or regulations of the North Dakota State Department of Health. 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 public sewer becomes available to a property served by a private wastewater disposal system, as provided in, a direct connection shall be made to the public sewer within 180 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.
7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the local Health Department.

14.10.040 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 and Y connector, at the user's expense, 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 not to exceed \$250.00 for a residential or commercial building sewer permit and not to exceed \$500.00 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, except for Chapter 14.10.080(2). 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, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
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, and 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.
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, area way 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.

14.10.050 Use of Public Sewers

1. No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any building drain or sewer which in turn is connected directly or indirectly to the sanitary sewer unless such connection is approved by the Superintendent and the North Dakota State Department of Health.
2. Stormwater 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 waste water works.
 - d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.
4. The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Superintendent 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, nonbiodegradable 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. 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.
 - 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 Chapter 14.10.050 and which in the judgement 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 billed 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, 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 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 accessibility and safely located and shall be constructed in accordance with plans approved by the Superintendent. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
9. The Superintendent may require a user of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:
 - a. Wastewaters discharge peak rate and volume over a specified time period.
 - b. Chemical analyses of wastewaters.
 - c. Information on raw materials, processes and products affecting wastewater volume and quality.
 - d. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
 - e. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
 - f. Details of wastewater pretreatment facilities.
 - g. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
10. All measurements, test and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Waste and Wastewater," published by the American Public Health Association. Sampling methods, location, limes, 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.

14.10.060 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.

14.10.070 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 which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
3. While performing the necessary work on private properties, 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.
4. The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties which receive services from the City of Rolla, for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities.

14.10.080 Sewer Service - Construction of - Cost - Maintenance of by Owner

1. The property owner is responsible for the sanitary sewer lateral which connects their property to the sanitary sewer main in the street. The connection to the sewer main is a part of the sewer lateral and is also the property owner's responsibility. The property owner is required to fix any improper connections, such as roof drains, downspouts, driveway drains, foundation drains, or sump pumps, connected directly to the sanitary sewer.
2. The cost of original installation, as well as repairs, shall be borne entirely by the property owner. The City of Rolla and a property owner may make a cost sharing arrangement for the cost of original installation of sewer service if the City Council finds that the connection would benefit the City of Rolla as a whole and not just one or a couple residents. The City of Rolla is not obligated to enter into such an agreement, however, and has the authority to set terms, rules, and regulations related to such arrangement.
3. The property owner is responsible for the maintenance and repair of the sanitary sewer lateral.

14.10.090 Sewer Infrastructure

Sewer Infrastructure rates shall be fixed by resolution of the City Council and the city reserves the right to change the rates, as it deems best. The purpose of this utility charge is to pay

the debt of the 2012 and 2013 Storm Sewer and Water Main Improvement Projects. The estimated final debt payment date is 2055.

Chapter 14.12 – Infrastructure Fund

14.12.010 – Miscellaneous Project

Miscellaneous Project rates shall be fixed by resolution of the City Council and the city reserves the right to change the rates, as it deems best. The purpose of this utility charge is to pay for future infrastructure improvements. Commercial and residential charges may be different.

Chapter 14.15 – Adoption of State Plumbing Code

14.15.010 Adoption

To promote and protect the public health there is hereby adopted the State Plumbing Code, which has been adopted by the State Plumbing Board and approved by the State Health Department, consisting of rules and regulations governing plumbing work, and the whole thereof, of which not less than one (1) copy is on file in the office of the City Auditor, and the same is hereby adopted as fully as if set out at length herein and all plumbing work in the City of Rolla shall comply with said code.

14.15.020 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 Commissioner of Water and Sewers, 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.

14.15.030 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 stormwater sewer, or any private sanitary drain, cesspool or privy, which in his judgment is so installed or is in such condition as to be unsanitary, or to constitute a public nuisance or menace to health. In case of such repair, alteration or removal, if the plumbing code is not observed and connections not properly executed by the owner or owners thereof, in accordance with his directions, he may cause the same to be discontinued from any source of water supply. It shall thereafter be unlawful for any person in any manner to use any such installation, or to supply water thereto, until the same shall have been put in a safe and sanitary condition according to his directions.

14.15.040 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 stormwater 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.

Chapter 14.17 - Shutting Off Services

14.17.010 Shutting Off Services

The City may shut off water service for delinquency in payment of any City utility service, whether water, sewer, garbage, or otherwise, or may in the alternative sue for collection or add to the taxes of property served in the same manner as are sidewalk assessments. Service may also be discontinued for disregard of rules and regulations affecting the service.

The City Auditor has the authority to order the turning off of the water supply for any violation above, and may direct the Public Works Superintendent to perform this duty. No person, other than the City Auditor shall order the water turned back on. The City Auditor may designate the Public Works Superintendent to act in the absence of the City Auditor.

The procedure for turning off the water supply shall be as follows:

- a. After 45 days delinquent on a City of Rolla Utility Bill or 45 days after notice of a violation of the rules and regulations affecting service with no correction, the City Auditor will instruct the Public Works Superintendent to shut the water off. Notice shall be given by stamping the City Utility bill with the due/disconnect date. A \$50 shut off fee and a \$50 reconnect fee will be charged. (Minimum rates will continue to accrue). The bill must be paid IN FULL, including fines, before the water is restored.

Chapter 14.14 – Municipal Dump Grounds, Recycling Center, and City Waste Collection

14.14.020 Rules and Regulations

The City Council of the City of Rolla shall from time to time adopt such rules and regulations by resolution concerning the use of the municipal dump grounds and recycling center and other City waste collection events or sites by City of Rolla residents as the council may deem advisable and in the interest of public health and a systematic use of said dump grounds.

14.14.050 Cancellation of License

The City Council may at any time cancel and terminate any City of Rolla resident's right to use the municipal dump grounds, recycling center, or other city waste collection for cause,

after a hearing shall have been had before the City Council, to which hearing said resident must be cited to appear and shall have at least twenty-four hours' notice of such hearing.

14.14.060 Fee

The City Council of the City of Rolla shall have the power to fix by resolution from time to time the price which residents under this ordinance must pay for using the municipal dump grounds, recycling center, or other city waste collection in accordance with the provisions of this ordinance.

14.14.070 Penalty

Any person or persons violating any of the provisions of this ordinance or any of the rules and regulations adopted by the City council hereunder, shall upon conviction thereof, pay a fine of not less than \$100 and not more than \$500.

Chapter 14.22 – Penalty

14.22.010 Penalties

1. Any person found to be violating any provision of this ordinance except Chapter 14.08.142, Chapter 14.10.060 and Chapter 14.14 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Any person who shall continue any violation beyond the time limit provided for in Chapter 14.22.010(1), shall be guilty of an infraction, and on conviction thereof shall be fined in the amount not exceeding Five Hundred and No/100 Dollars (\$500.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. Infraction amounts shall be set by resolution of the Rolla City Council.
3. Any persons violating any of the provision of this ordinance shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.

TITLE 15 – PUBLIC NUISANCE

Chapter 15.01 – Definitions

15.01.010 Definitions

The following words or terms, when used herein, shall be deemed to have the meanings set forth below:

1. Abandoned Vehicle shall include without limitation any vehicle which has remained on private property for a period of forty-eight (48) continuous hours, or more, without consent of the owner or occupant of the property or for a period of forty-eight (48) continuous hours or more, after the consent of the owner or occupant has been revoked.
2. Blighted Structure shall include without limitation any dwelling, garages, or outbuilding, or any factory, shop, store, warehouse or any other structure or part of a structure which because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, not useful for the purpose for which it may have been intended.
3. Building Materials shall include without limitation, lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.
4. Inoperative shall mean a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned, or unable to perform the functions of purposes for which a vehicle was originally constructed.
5. Junk shall include without limitation parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal, or any other castoff material of any kind, whether or not the same could be put to any reasonable use.
6. Junk Automobiles shall include without limitation any motor vehicle which is not licensed for use upon the highways of the state for a period in excess of sixty (60) days and shall also include whether licensed or not any motor vehicle which is inoperative for any reason for a period in excess of sixty (60) days, provided that there is excepted from this definition unlicensed but operative vehicles which are kept as a stock in trade of regularly licensed and established new or used automobile dealer.
7. Person shall include all natural person, firms, co-partnerships, corporations, and all associations of natural person, incorporated or unincorporated, whether acting themselves or by a servant, agent, or employee. Persons shall also include landlords and tenants jointly or severally. All persons who violate any of the provisions of this article, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.
8. Portable Storage Container – Containers that are used for storage purposes and are also known as shipping containers, cargo containers, cargo-trailer contains, metal freight containers, and metal containers designed for freight and cargo.
9. Trash and Rubbish shall include any and all forms of debris not herein otherwise classified.

Chapter 15.02 – Accumulation of Garbage – Nuisance

The accumulation of garbage within the City of Rolla so as to become a menace to health, or detract from the general cleanliness of the City, and the storing or keeping of garbage contrary to the public health and safety, is hereby declared to be a public nuisance and unlawful. The accumulation of fallen or cut trees and branches and other items of is also declared to be a public nuisance and unlawful. Such nuisance shall be abated in the manner prescribed by this Title.

Chapter 15.03 – Trees – Nuisance

15.03.010 Public Nuisance – When

The following are considered public nuisances whenever they may be found within the City of Rolla:

1. Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus, *Ceratocystis ulmi*, and which harbors any of the elm bark beetles, *Scolytus multistriatus* or *Hylurgopinus rufipes*.
2. Any tree harboring insect or disease organisms of a contagious and fatal nature which pose a serious threat to surrounding trees if not immediately removed and disposed of.
3. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed to chipped or buried in a land fill.
4. Any tree, shrub, or hedge, or part thereof, growing upon public property or upon private property and/or overhanging or interfering with the use or vision of any public walk, street or highway, park, public place or street sign, within the City of Rolla, which in the opinion of the Public Works Supervisor endangers the life, health, safety, or property of the public, shall be declared a public nuisance.
5. Any tree, shrub, or hedge, or part thereof growing upon public property or upon private property which is found to be dangerous or unsafe shall be declared a public nuisance.

15.03.030 Abatement

It is unlawful for any person to willfully permit any public nuisance as defined above to remain on any premises owned or controlled by him within the City. Such nuisance must be abated in the manner prescribed by this Title.

Chapter 15.04 – Noxious Weeds & Tall Grass

15.04.010 Definition

Whenever used in this ordinance, the term “noxious weeds” shall mean and include all weeds of the kind known as Canada Thistle, sow thistle, quack grass, leafy spurge (*Euphorbia esula* or *Ruphrobia virgata*), field bindweed, Russian knapweed, (*Centaurea picris*), dandelions,

hoary cress (*Lepidium draba*, *Lepidium reebs*, and *Hymenophyllum pubescens*), dodder, or any similar unwanted vegetation over eight inches in height.

Whenever used in this ordinance, the term “tall grasses” shall mean all grass in excess of eight inches in height.

15.04.030 Weeds and Tall Grasses Prohibited

No owner of any lot, place or area within the City or the agent of such owner, shall permit on such lot, place or area and the one-half of any road or street lying next to the lands or boulevards abutting thereon, noxious weeds, other deleterious, unhealthful growths or tall grasses.

15.04.050 Notice to Destroy

The City auditor, Chief of Police, or any other person designated by the City Council is hereby authorized and empowered to notify in writing the owner of any lot, place, or area within the City or the agent of such owner, to cut, destroy, and /or remove any noxious weeds or tall grasses found growing, lying, or located on such owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon. The notice shall be by registered or certified mail addressed to said owner or agent of said owner at their last known address or placed on the front door of such residence and shall give such owner or agent a minimum of ten days to cut or destroy the noxious weeds or tall grasses.

15.04.070 Action Upon Non-Compliance

Upon the failure, neglect, or refusal of any owner or agent to cut, destroy and/or remove noxious weeds or tall grasses growing, lying or located upon the owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon, after receipt of the written notice provided for above or within ten days after the date of such notice in the event the same is returned to the City because of inability to make delivery thereof, the city auditor, Chief of Police, or other person designated by the City is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or tall grasses or to order their removal by the City.

15.04.090 Cost Assessed to Property

When the City has affected the removal of such noxious weeds or tall grasses or has paid for their removal, the actual cost thereof, if not paid by the owner prior thereto, shall be charged and assessed against the property upon which the noxious weeds or tall grasses were cut or destroyed. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists and shall be approved by the governing body. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law.

Chapter 15.05 – Lot Nuisance

15.05.030 Storage of Junk, Junk Automobiles- Contrary to Public Health and Safety - Nuisance

It is hereby determined that the storage or accumulations of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, and the maintenance of blighted structures upon any private property within the city tends to result in blighted and deteriorated neighborhoods, increased criminal activity, spread of vermin and disease and is contrary to the public peace, health, safety and general welfare of the community and therefore constitutes a nuisance.

15.05.050 Unlawful to Store or Accumulate Junk, Junk Automobiles, etc.

It shall be unlawful and is declared a nuisance for any person to store, or permit the storage or accumulation of trash, rubbish, junk, junk automobiles, or abandoned vehicle on any private property in the city except as follows:

1. Within a completely enclosed building.
2. Upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer. However, any junk dealer, junk buyer, dealer in used parts or dealer in secondhand goods or junk gatherer shall store said items in an area which shall be enclosed in a building or located behind a site fence approved by the city and shall be stored in a manner so as not to create an unsightly mess, deterioration of the neighborhood, increased criminal activities, spread of vermin and disease or in any way create a situation contrary to the public peace, health, safety or general welfare of the community.
3. Vehicles which are covered by a secured automobile cover, specifically designed to cover the individual vehicles in question, when the vehicles are not being used or worked on shall be located in such an area on the vehicle owner's property and in a manner so as not to create an unsightly mess, deterioration of the neighborhood, increased criminal activities, spread of vermin and disease, or in any other way create a situation contrary to the public peace, health, safety, or general welfare of the community. Where practicable storage should be out of sight or as near out of sight as possible from a public street or neighbor's yard.

15.05.070 Unlawful to Dismantle Automobile Except on Business Premises

It shall be unlawful and is declared a nuisance for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same is a junk automobile, abandoned vehicle or otherwise, or any appliance or machinery, except as set forth below:

1. Dismantling may take place in a completely enclosed building.
2. Dismantling may take place upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer.
3. Automobiles may be dismantled on private property, for purposes of making necessary repairs or improvements to said vehicles provided that said vehicles may not be

dismantled for a period of time longer than sixty (60) consecutive days and that said dismantling shall be done in a manner so as not to create an unsightly mess, unreasonable noise, deterioration of the neighborhood, increased criminal activities, spread of vermin and disease or in any other way create a situation contrary to the public peace, healthy, safety, or general welfare of the community. In all cases, vehicles dismantled on private property shall be the property of the owner or resident of the property.

15.05.090 Unlawful to Maintain Blighted Structure

It shall be unlawful and is declared a nuisance for any person to keep or maintain any blighted or vacant structure, dwelling, garage, or outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by unauthorized person or unless such structure is in the course for construction in accordance with a valid building permit issued by the city and unless such construction is complete within a reasonable time.

15.05.110 Unlawful to Store Building Materials Except on Business Premises

It shall be unlawful and is declared a nuisance for any person to store or permit the storage or accumulation of building materials on any private property, except as follows:

1. When in a completely enclosed building.
2. When stacked in a neat and orderly manner so as not to be unsightly. No storage method or arrangement shall be allowed if it presents a safety or health hazard or contributes to the spread of vermin or disease.
3. When building materials are part of the stock in trade of a business located on the property.
4. When such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the city.

15.05.130 City Police Department May Remove Junk Automobiles or Abandoned Vehicles

1. The City Police Department is hereby authorized and empowered to notify the owner, tenant, occupant, lessee or agent of the owner, of any property within the city to obey and remove junk, junk automobiles, or any other items or materials found accumulated, lying or located on such property (whether private or public). Such notice shall be served personally or delivered by certified mail, return receipt requested, to the last reasonably known address of the owner, tenant, occupant, lessee or agent of the owner if such address is reasonably ascertainable or shall be posted on the premises at least twenty (20) days prior to abatement of the nuisance. The notice shall specify the legal description of the premises and shall set forth, if possible, the street address of the premises. It shall include an explanation of the right to a hearing on the necessity for the abatement which is provided in this ordinance.
2. Upon the failure, neglect, or refusal of the owner, tenant, occupant, lessee or agent of the owner, so notified to abate and remove the nuisance caused by the accumulation of junk,

junk automobiles, or other nuisances as specified in the this ordinance, the Chief of Police is hereby authorized and empowered to pay for the abatement and removal of said nuisance. If within twenty (20) days after the date of any letter containing such notice is returned to the city because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner, occupant, or agent of the owner, and if the City Police Department is unable to contact such owner, occupant or agent by telephone upon reasonable effort, the City Police Department may also pay for the abatement of the nuisance or order its removal by the city. In order to abate said nuisance, the City Police Department or their Agent is authorized to enter upon the premises described in such notice and to take whatever steps as might be reasonably required to abate the nuisance and such entry, if reasonable in nature and undertaken in good faith, shall not constitute a trespass or conversion.

3. The costs of abatement or removal of the nuisance which are incurred by the city shall be certified by the City Police Department to the city auditor for assessment against property, provided however, that if the property has any value it may be disposed of and funds retained shall first be applied to the expenses, as specified in this ordinance, and then shall be returned to the owner of the property, if the owner can be located within ninety (90) days. If the owner cannot be located, the funds shall be returned to the auditor of the City of Rolla.
4. Such removal by the City Police Department shall not excuse or relieve any person of the obligation imposed by this ordinance to keep his property free from storage or accumulation of junk automobiles or abandoned vehicles, or part of junk automobiles or abandoned vehicles, or parts of either, or from any other violation of this ordinance, nor from the penalties for violation thereof.

15.05.170 Disposition of Junk Automobiles or Abandoned Vehicles Determined to be of No Value

Any junk automobile , abandoned vehicle, or part of either removed from unenclosed private property as provided by this ordinance, or coming into the possession of the City Police Department by abandonment on public property in the city, which is determined by the Chief of Police to be of no value other than as scrap metal shall be disposed of by the city in such a manner as to eliminate the unsightly accumulation of such worthless hulks and the hazards to the public health attendant thereto with the least practicable delay.

Chapter 15.07 – Sanitary Nuisance

15.07.010 Residence – When Sewer and Water Required

It shall be unlawful for any person to use or occupy or permit to be used or occupied for residence purposes, any premises or building within the corporate limits of this City without first making or causing to be made proper connections with the City’s sewer and water facilities and mains.

The term “proper connections” when used in this section shall be construed to mean connections with the water mains and sanitary sewers which are equipped and furnished with

proper valves and fittings so as to enable such water connections to be used at all times. Sanitary toilets and drains and such equipment shall at all times be kept in repair so as to make them available for household use and in condition to be used at all seasons of the year. Utility Bills shall at all times be paid up to date and if at any time the City shuts off the water for delinquent bills, an individual shall be in violation of this section until such time as they reestablish connection.

Chapter 15.08 – Noises

15.08.010 Findings

1. The making, creation or maintenance of loud, unnecessary, unnatural, or unusual noises, which are prolonged, unusual, and unnatural in their time, place and use, affect or are a detriment to public health, comfort, convenience, safety, welfare, and prosperity of the residents of the city.
2. The provisions and prohibitions contained in this chapter are necessary and in the public interest.
3. The provisions and prohibitions of this article are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, prosperity, and the peace and quiet of the city and its inhabitants.

15.08.030 Unnecessary Noise Generally

It is unlawful for any person to make any loud, unnecessary, or unusual noise, or any noise that annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the city.

15.08.050 Definitions; Noises Prohibited – Decibel Provisions

1. *Tests for unlawful noise.* Factors that can be used in determining whether a violation of this chapter has occurred include, but are not limited to, the following:
 - a. The volume of the noise;
 - b. The intensity of the noise;
 - c. Whether the nature of the noise is usual or unusual;
 - d. Whether the origin of the noise is natural or unnatural;
 - e. The volume and intensity of the background noise, if any;
 - f. The proximity of the noise to residential sleeping facilities;
 - g. The proximity of the noise to a hospital or other treatment facility;
 - h. The nature and zoning of the area with which the noise emanates;
 - i. The density of inhabitation of the area within which the noise emanates;
 - j. The time of day or night when the noise occurs;
 - k. The duration of the noise;
 - l. Whether the noise is recurrent, intermittent or constant;
 - m. Whether the noise is produced by a commercial or noncommercial activity.

2. If a decibel sound level meter is used to measure the noise a reading of 55 decibels from 7:00 a.m. until 10:00 p.m. and a reading of 50 decibels from 10:00 p.m. until 7:00 a.m. shall be prima facie evidence that this chapter has been violated.

15.08.070 Penalty

Any person violating any provision of this chapter is guilty of a Class B misdemeanor. Chapter 15.14 shall not apply to this Chapter.

Chapter 15.09 – Storage Containers

15.09.010 Storage Container Permit

No person shall place, keep, or allow to be placed or kept, a portable storage container upon any lot within R-1, R-2, or RMH zoning districts without first obtaining a permit. Such permit may be issued by Rolla City Council, Rolla City Auditor, or Rolla City Manager.

15.09.030 Permit Requirements

The Rolla City Council shall set by resolution the permit fees, requirements for location and placement of such portable storage container, and the issuing party.

15.09.050 Existing Storage Containers

Any owner of a portable storage container within R-1, R-2, or RMH zoning districts at the time of the passing of this ordinance shall immediately notify the City of Rolla of their existence and obtain a permit.

15.09.060 Nuisance

Failure to comply with the provisions of Chapter 15.09 shall constitute a public nuisance and be punishable as such.

15.09.070 Penalty

Violation of this Chapter shall be an infraction and may be punishable by a fine not to exceed five hundred dollars (\$500.00) for each and every day that any violator fails to comply with the provisions of these regulations. Chapter 15.14 shall not apply to this Chapter.

Chapter 15.14 – Nuisance Notice

15.14.010 Opportunity for Hearing

Any owner, tenant, occupant, lessee or agent of the owner, of any property within the city, who has been provided with a notice that they are in violation of this ordinance may seek a hearing before the Municipal Judge of the City of Rolla for the purpose of making a determination whether or not the person is in violation of this ordinance. Any person desiring said hearing shall notify the Municipal judge, in writing, within ten (10) days of the receipt of or posting of the required notice and shall be given an opportunity to appear before the Municipal Judge within thirty (30) days after said notification of a desire for hearing. The city shall have the burden of proving by a preponderance of the evidence that the conditions of which it complains, constitute a nuisance as set forth in this ordinance. The Municipal Judge shall either find for the owner of the property, in which case no further action may be taken by the city without the issuance of another notice, pursuant to this ordinance, which shall be issued only in the event of a material change in circumstance, or the . Municipal Judge shall find for the city, in which case the owner shall have an additional ten (10) days from the date of service upon him by mail or in person of a copy of the Municipal Judge's decision in which to abate the nuisance. If the owner fails, neglects, or refuses of abate the nuisance within that period of time, then the City Police Department may proceed to enter upon the property to abate the nuisance and such actions, if reasonable in nature and undertaken in good faith, shall not constitute a trespass or conversion.

15.14.030 Abatement Without Prior Notice

In the event a nuisance as defined herein shall, in the opinion of the Chief of Police constituted immediate and serious danger to the health of any person or shall constitute immediate and serious danger to the private or public property, the city may, without prior notice to the owner of the premises immediately enter upon the premises and take whatever steps are required to abate the nuisance. If such actions are reasonable in nature and undertaken in good faith, such action shall not constitute trespass or conversion. Any attempt by the city to give the owner prior notice shall not constitute a waiver of the right under this section to act without prior notice.

15.14.050 Other remedies: Harboring a Nuisance

The provisions of this ordinance shall not constitute the exclusive remedy of the City of Rolla to abate nuisances. The city reserves the right to proceed in any court of competent jurisdiction to obtain an injunction requiring abatement of the nuisance and such remedy may be asserted without regard to the notice requirements of this ordinance and the provisions for the administrative relief set forth herein. Moreover, the harboring or maintenance of a nuisance shall constitute an offense punishable under this ordinance as set forth below.

Chapter 15.15 – Penalties

15.15.010 Penalties

The first nuisance penalty for any person who violates or fails to comply with any provisions of this Ordinance shall be a fine of not more than Five Hundred Dollars (\$500.00) for each infraction, and a separate infraction shall be deemed committed on each day during or on

which the nuisance exists. Any and all subsequent violations shall be deemed a class B misdemeanor.

TITLE 16 - FIRE

Chapter 16.01 - Organization and Regulation of the Fire Department

16.01.010 - Establishment of Fire Department

There is hereby created and established a fire department, and if hereto created, such department is hereby continued, consisting of a chief and such other members of said fire department as may from time to time be provided for by the governing body. Members shall be appointed in the manner provided by law.

16.01.030 - Supervision by Fire Chief

The fire chief shall have control, subject to the order and direction of the city governing body, of the fire department and all fire apparatus belonging to the City. Whenever any fire apparatus needs repairing, the fire chief shall cause the same to be done without delay.

16.01.050 - Volunteer Fire Department

The fire department of the City shall be composed of volunteer firemen who shall receive no wages or salaries therefore.

16.01.070 - Officers of Fire Department

The officers of the volunteer fire department of the City shall consist of a chief of the fire department and an assistant chief of the fire department, who shall be duly elected from the membership of said department and approved by the city governing body, plus such other officers as the members thereof deem necessary. Said officers are to be elected in July of each year.

16.01.090 - Chief of Fire Department – Powers, Salary

The chief of the fire department shall be a competent and experienced fireman who shall have entire charge and control of the department at all fires. The fire chief shall further have charge, supervision and control over all property, equipment and supplies of the fire department entrusted to his care during his tenure of office. The fire chief may be paid a salary as set by resolution of the city governing body.

16.01.110 - Duties of Fire Chief

The fire chief shall have the following duties and powers:

1. To keep records. The fire chief shall cause to be kept, in books for that purpose, a full and complete record of the organization of the department, its membership, vacancies, appointments and dismissals, and of all notices issued by the department. The fire chief shall also keep a record of all transactions of the department, all fires occurring in the

City, and the cause thereof when ascertainable, and of all property placed in the fire chief's charge. Such records shall always be open to the inspection of any member of the city governing body.

2. To command and control. It shall be the duty of the fire chief to preserve order and discipline at all times in the department, and to require and force a strict compliance with the ordinances of the City relating to the department and the rules and regulations pertaining thereto. At all fires the fire chief shall have sole and absolute control and command over all persons connected with the fire department of the City.
3. To make reports. The fire chief shall report at the end of each December and when required to do so to the city governing body. At the end of each calendar year, the fire chief shall file an annual report with the city auditor. The fire chief shall report upon the condition of the fire department, the number of fires that have occurred in the City since the last report, and during the year in the annual report, and the cause of the same, so far as can be ascertained, the number of buildings destroyed or injured, the names of the owners or occupants of the same as nearly as can be ascertained, and the amount of loss upon the buildings and other property. The fire chief shall also file reports on fires to the state fire marshal as required by North Dakota Century Code section 18-01-06.
4. To make annual inventory. The fire chief shall, by the end of June in each year, make a complete list and of all fire department property, stating its condition. The fire chief shall also report as to such new apparatus or supplies as in the fire chief's judgment may be needed to properly maintain the department.
5. To prepare a budget. The fire chief shall prepare a budget of the cost of providing for and maintaining the fire department of the City during the succeeding fiscal year.
6. To keep property in good condition. The fire chief shall keep property in good condition and see that all fire department equipment and facilities are kept clean and in good working condition.
7. To have charge of alarm system. The fire chief shall have charge of the fire alarm systems of the City.
8. To control crowds at fires. The fire chief may prescribe limits in the vicinity of any fire within which no persons, except those admitted by the fire chief's order, are allowed.
9. To order removal of property. The fire chief may order the removal of property whenever it shall become necessary for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property.
10. To command assistance. The fire chief may command assistance from persons in attendance at any fire for the extinguishing of fires.

11. To prescribe badge and uniform. The fire chief may prescribe the badge and uniform to be worn by the members of the fire department.

16.01.130 - Fire Chief to Report New Equipment Needed

Whenever, in the fire chief's judgment it is necessary, the fire chief or other representative of the fire department shall meet with and render a report to the city governing body as to the equipment and supplies that are needed for the efficient operation of the fire department.

16.01.150 - Police Powers of Fire Department

All members of the fire department of the City, while on active duty, shall have the powers of the policemen on duty and are authorized to arrest any person or persons who shall interfere or attempt to interfere with or to hinder any member of the department in the performance of their duty.

16.01.170 - Unlawful to Hinder Fire Department

It shall be unlawful for any person to prevent, interfere with, or in any manner hinder the fire department, or any member thereof, while engaged in the discharge of duty at a fire, or to disobey any lawful command of the fire chief or acting chief of the fire department.

16.01.190 - Right of Way - Fire Department Vehicles

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

16.01.210 - Driving Over Fire Hoses

No person shall drive any automobile or other vehicle of any kind whatsoever, upon or over any hose belonging to the fire department while the hose is laid in the streets and alleys of the City.

16.01.230 - False Alarms of Fire

It shall be unlawful for any person knowingly to give or cause to be given any false alarm of fire, or to give or cause to be given, while a fire is in progress, a second or general alarm for the same fire, or tamper with or set off any fire alarm or signal box with like intent; or intentionally interfere with or injure any property of any kind belonging to or used by the fire department; or hinder or delay any apparatus or equipment or vehicle belonging to the fire department.

16.01.250 - Taking Fire Equipment

No person shall take, receive or attempt to receive or take from the possession and control of any member of the fire department, any of the apparatus, tools or property belonging to said department, without the consent of the fire chief.

16.01.270 - Entering Fire Department

No person shall occupy any rooms in any buildings used by the Fire Department or enter such rooms or handle any apparatus used by the fire department without permission.

16.01.290 - Fire Department Service Outside Corporate Limits

Members of the fire department are authorized to go outside the corporate limits of the City for the purpose of rendering aid to other fire departments or of extinguishing fires or rendering aid in the case of accidents upon orders of the fire chief, the assistant chief or presiding officer of the City governing body. Where the City has undertaken by contract to render service to property outside the corporate limits, the fire department may leave the corporate limits in the fulfillment of such contract.

Chapter 16.03 – Fire Limits

16.03.010 – Fire Limits Defined

All that portion of the City of Rolla, bounded by and within the following described territory in said city as hereby defined, shall hereafter be known and constitute the fire limits of the City of Rolla, to-wit: All that portion of Block 7, lying and being between Main Street and the alley in said block, all that portion of Block 8, lying and being between Main Street and the alley in said block, all that portion of Block 9, lying between Main Street and the alley in said block and all that portion of Block 10, lying between Main Street and the alley of said block, all of the said above described blocks to be a part of the original Townsite of the City of Rolla, according to the plat thereof on file and of record in the office of the Register of Deeds in and for the County of Rolette and State of North Dakota.

16.03.030 – Kind of Buildings Within Fire Limits

Every building hereafter erected or enlarged within the fire limits of the City of Rolla, shall be built of brick, stone, concrete, cement, iron or other incombustible material or shall be covered with iron or steel sheeting.

16.03.050 – Unlawful to Repair Frame Buildings.

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

16.03.070 - Permit Required.

No person, persons, firm or corporation, shall erect or attempt to erect, rebuild, raise or enlarge within said fire limits or remove from one place to another within said fire limits or from any place outside of said fire limits to any place within said fire limits any building or structure unless he shall have first presented his application in writing for a permit to build, rebuild, raise, enlarge or remove such building to the City Council and the same shall have been passed upon and approved by it. Every person applying for such permits shall specify in writing the size of such building, kind of materials to be used and the place where the same is to be located and if the building is to be repaired or removed, give a particular description of the kind and the amount of the repairs and the place from which it is to be taken and where to be located.

Chapter 16.05 – Fire District

The entire incorporated area of the City of Rolla is hereby declared to be and is hereby established as a fire district and said fire district shall be known as designated Fire Zone No. 1, 2, and 3, and each such Zone shall include such territory or portions of said City as illustrated, outlined and designated on a certain map on file in the Office of the City Auditor of the City of Rolla, being marked and designated as “Fire Zone of the City of Rolla,” which is hereby adopted as the fire zone map of the City of Rolla for the application of the regulations adopted by the City of Rolla ordinances.

Chapter 16.07 – Fire Prevention

16.07.010 – Adoption of Fire Code

There is hereby adopted by the City of Rolla for the purposes of prescribing regulations governing conditions hazardous to life and property from fire or explosions, that certain code known as the 2021 International Fire Code and future amendments, save and except such portions as are hereinafter deleted, modified or amended, of which code a copy is on file in the office of the city auditor and the same is hereby adopted and incorporated in full as if set out length herein.

16.07.050 – Enforcement

1. The fire prevention code shall be enforced by the fire department of the City under the supervision of the chief of the fire department.
2. The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary.

16.06.070 - Storage of Flammable Liquids and Liquid Petroleum

Storage of flammable liquids in outside above ground tanks, and bulk storage of liquefied petroleum gases is to be restricted in the whole of the incorporated areas of the City of Rolla.

16.06.090 – Modification 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.

16.07.110 – Appeals

Whenever the chief of the fire department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that 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.

Chapter 16.09 – Fireworks

16.09.010 – Use of Fireworks

The use of fireworks is prohibited within the corporate limits of the City of Rolla except:

- A. From June 27 through July 5; and on December 31 and January 1, subject to limited hours of use, as follows.
 - 1. July 3 and July 4 legal time for use will be 8:00AM to 1:00 AM.
 - 2. June 27-30; and July 1, 2 and 5, legal times for use are 8:00 A.M. TO 10:30 P.M.
 - 3. December 31, legal time 9 PM. to 1:00 AM January 1st
- B. Fireworks can be used for a special event by applying for a permit. Special Event permits will not be required June 27 through July 5 and on December 31/January 1. To apply for a permit the following information must be presented in writing to the City Auditor 5 days prior to the event:
 - 1. Time, date and location of the event.
 - 2. Copy of liability insurance.
 - 3. The person in charge must sign the written request.
 - 4. Copies of the request will be given to the Chief of Police and City Council.
 - 5. The Auditor will approve the permit upon the approval of the permit from the Chief of Police.

Chapter 16.10 – Unlawful to Sell or Store Explosive and Combustible Products

No person, persons, firm or corporation, shall erect, construct, build or remodel any building within the limits of the city of Rolla, North Dakota for the purpose of using the same for

the storage or sale of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, hemp cotton, nitroglycerine, petroleum, or any of the products thereof, and other combustible or explosive material, nor shall such person, persons, firm or corporation, keep any of the above mentioned products for storage and sale, within said city limits, without first having obtained permission of the city council of the city of Rolla, North Dakota, therefore, any person, persons, firm or corporation desiring to keep any of the above mentioned products for storage or sale shall apply to the city council of the city of Rolla, in writing for permission therefore, which application shall state the kind of product or products desired to be kept, the approximate amount desired to be kept and the place where the same shall be kept for said time and sale. The city council may set any parameters regarding the permit that it sees fit.

Chapter 16.12 - Penalty

Any person who shall violate any provisions of this chapter or fail to comply therewith or who shall violate or fail to comply with any order made thereunder or who shall build in violation of any detailed statement of specifications or plans submitted and approved 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 as a Class B Misdemeanor. 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.

TITLE 17 – BUILDINGS & CONSTRUCTION

Chapter 17.01 – Electrical Code

17.01.010 Adoption of Electrical Code.

The installation, use and repair of all electrical wiring and all fixtures and appliances using electricity, within the City of Rolla, shall be in accordance with the minimum standards as set forth in the laws, regulations, and wiring standards of the North Dakota Century Code, as last amended or revised, and as published by the State Electrical Board of the State of North Dakota, a certified copy of which publication shall be placed on file in the office of the City Auditor, and which wiring standards are hereby adopted by reference.

17.01.030 Penalty

Any person violating the provisions of this ordinance or any of the laws, regulations and standards hereby adopted, shall upon conviction be punished by a fine of not to exceed \$500.00.

TITLE 19 – ZONING

Chapter 19.01 – Introduction

9.01.010 Authority

The Authority for this code is granted by chapters 40-47 of the North Dakota Century Code.

9.01.020 Title

This ordinance shall be known as the “Zoning Ordinance, City of Rolla, North Dakota.”

9.01.030 Purpose

The purpose of this ordinance is to promote the health, safety, morals, and general welfare as well as provide for the orderly development of the city, to encourage the use of community resources in a socially and economically desirable manner, and to provide a mechanism by which the city can establish and carry out its development policies.

9.01.040 Severability

If any provision or section of this ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

9.01.050 Definitions

1. Accessory Buildings and Uses: A subordinate building or portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.
2. Agriculture: The use of land for agricultural purposes, including the necessary buildings or structures for farm or farm labor use. Agriculture shall be limited to farming and the open grazing of livestock.
3. Alley: A public or private thoroughfare providing access to the back or side of two or more properties.
4. Alteration: Any change in the supporting members or any substantial change in the roof or exterior walls, or the moving from one location or position to another of a building.
5. Amendment: Any change, revision or modification of the text of the ordinance or the zoning district map.
6. Block: Is an area of land within a subdivision that is entirely bounded by street or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a physical land barrier such as a river or railroad.
7. Bond: Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council. All bonds shall be approved by the City Council wherever a bond is required by these regulations.

8. Building: Any structure designated or intended for shelter or protection of person, animals, or property.
9. Building, Height of: The vertical distance from the grade to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.
10. Building Permit: It is the permit to allow for structural construction as required under the building Code of the City of Rolla.
11. City: The City of Rolla.
12. Code Administrator: The City Auditor, Building Inspector, and City Manager, if one shall exist, shall administer and enforce the provisions of these regulations, or his/her subordinate.
13. Comprehensive Plan: Refers to the group of maps, charts and texts that make up the Comprehensive Guide Plan or Master Plan of the City.
14. Conditional Use: A use which would not be appropriate in a particular district, but which, if controlled as to the number, location, or relation to a neighborhood, would promote the public safety, health, convenience or welfare. A conditional use is allowed in a district only if the regulations for that district specifically permit it subject to the approval of the Planning and Zoning Commission and only when the Planning and Zoning Commission finds that such use meets all of the requirements applicable to it as specified in the ordinance. The Planning and Zoning Commission may choose not to approve the conditional use, but the reasons must be given in writing.
15. Council: The governing body of the City of Rolla.
16. Design Standards: Are the specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things the optimum, minimum, or maximum dimensions of such items as right-of-way, blocks, easements and lots.
17. Developer: The owner, subdivider or party promoting the growth or building in an area.
18. District: A section or sections of Rolla for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.
19. Dwelling: Any building or portion thereof which is designed and used exclusively for residential purposes. This does not include mobile recreational vehicles.
20. Dwelling, Single Family: A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means and meets the following requirements:
 - a. Is designed to be located on a permanent frost-protected perimeter foundation that meets applicable City Building Code (IBC) requirements, such that the floor elevation of the proposed dwelling is reasonably compatible with the floor elevations of surrounding dwelling units;
 - b. If dwelling is site built or built off site and moved to the building site, it shall be constructed in accordance with the provisions of all state and local building codes;
 - c. If dwelling is factory built off site and moved to the building site and defined as Modular or Prefabricated Living Unit, it shall be constructed in accordance with all state and local building codes covering construction;
 - d. If dwelling unit is fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in

compliance with the HUD Federal Manufactured Housing Construction and Safety Standards Act of 1974 (24 CFR 3280), the HUD approved housing unit must have the hitch, axles and wheels removed; the roof shall be double-pitched and but not limited to wood, asphalt shingles or fiberglass; the exterior siding cannot have a high gloss finish and must be covered with an exterior material customarily used on conventional dwellings; including but not limited to vinyl or metal siding, wood or similar material;

- e. All single-family dwellings shall be considered and taxed as real property, pursuant to N.D.C.C. 57-02-04.
- 21. Dwelling, Two Family or Duplex: A building having accommodations for and used exclusively by two families.
- 22. Dwellings, Multiple: A single building designed for and occupied by more than two families.
- 23. Easement: Is a grant by a property owner of the use of a strip of land for such public use as constructing and maintaining utilities, including, but not limited to sanitary sewers, watermain, electric lines, telephone lines, T.V. or F.M. transmission lines, storm sewer or storm drainage ways, gas lines and roadways.
- 24. Family: Shall mean one individual or group of two or more persons living together as members of a single housekeeping unit and doing their cooking in a single kitchen on the premises, as distinguished from a group occupying a boarding and rooming house, lodging house, hotel, or club.
- 25. Feedlot: The use of land or buildings for the exclusive purpose of concentrated feeding or fattening of livestock for marketing.
- 26. Final Plat: Is a drawing or map of a subdivision, meeting all the requirements of the City of Rolla and in such form as required by the County of Rolette for purposes of recording.
- 27. Flood Plain: That continuous area adjacent to a stream or other natural drainage channels or areas, which are low lying, difficult to drain or subject to flooding.
- 28. Home Occupations: Any occupation or activity carried on in a dwelling 1) by a member of the immediate family residing therein, 2) is clearly secondary to the use of the dwelling for residential purposes, 3) and does not create excess noise, traffic or other disturbances. Home occupation shall include the use of a portion of a dwelling as an office and not employing more than one person outside the immediate family residing therein.
- 29. Improvement: An improvement consisting of any sanitary sewer, storm sewer, drainage ditch, water main, roadway, street grading and surfacing with or without curbs and gutters, sidewalks, planting strips, crosswalk, off street parking areas, or other facility for which the City of Rolla may ultimately assume the responsibility for maintaining and operating.
- 30. Intersection Street: Is the point of crossing or meeting of two or more streets.
- 31. Junk Yard: Any land or building used for the storage, sale or dismantling of obsolete vehicles, junk and other machinery.
- 32. Lot: A parcel of land capable of having a building and accessory uses and still meet the yard requirements, and fronts on a street.
- 33. Lot, Corner: A lot situated at the intersection of two (2) streets.
- 34. Lot Coverage: The total surface of a lot which is covered by any type of structure.
- 35. Lot Depth: The average distance between the front and rear lot lines.

36. Lot of Record: A lot, the description of which is recorded in the County Register of Deeds Office.
37. Lot Width: The average distance between the side lot lines measured parallel to the front lot line.
38. Manufactured Home: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site and to be used with or without a permanent foundation is bearing a label certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standard Act of 1974 (24 CFR 3280) which became effective June 15, 1976, promulgated by the United States Department of Housing and Urban Development.
39. Modular or Prefabricated Living Unit: Factory-built housing certified as meeting the State and Local Building Code as applicable to modular housing or prefabricated housing. All must conform with local and state codes and are subject to the same standard as site-built homes.
- a. Mobile Home: A factory built home that is transportable in one or more sections; and designed to be used with or without a permanent foundation when connected to the required utilities and built prior to enactment of the Federal Manufactured Home construction and Safety Standards Act of 1974 (24 CFR 3280), which became effective June 15, 1976.
40. Master Plan: See "Comprehensive Plan"
41. Mobile Home: A mobile home shall be an all inclusive description of any dwelling unit, the original design of which permits it to be portable and no structural modifications including the addition thereto of porches, lean-to or other additions, nor the placement on any foundation or basement shall change its classification as a Mobile Home.
- Three distinct structural features are required for any home to qualify for the Dwelling classification rather than the Mobile Home classification.
- a. The structure must have regular wooden floor joists rather than the metal undercarriage common to a Mobile Home.
 - b. The wall studs must be of not less than 2x4 dimension and the siding must be of wood or masonite or other material common to a Dwelling rather than a metal skin usual to a Mobile Home.
 - c. The roof must be sloped with regular shingles of asphalt or other material common to a Dwelling roof.
42. Mobile Home Park: A tract of land designed and developed to accommodate mobile homes on lots on a purchase, lease or rental basis.
43. Motel: A building or group of buildings used primarily for the temporary residence of motorists or travelers.
44. Non-Conforming Use: Any building, structure or tract of land existing at the time of enactment of this code which does not conform to the provisions of this code.
45. Owner: Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public or quasi-public corporation, private corporation or a combination or any of these.
46. Parking Space: An area enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile. All references to vehicle parking shall mean off street parking.

47. Parks and Playgrounds: Are public land and open spaces in the city of Rolla dedicated or reserved for recreational purposes.
48. Pedestrian Way: Is a public or private right-of-way across a block or within a block to provide access to be used by pedestrians and which may be used for the installation of street light utility lines,
49. Planning and Zoning Commission: The Planning and Zoning Commission of the city of Rolla.
50. Preliminary Plat: Is a tentative drawing or map of a proposed subdivision meeting requirements herein enumerated.
51. Protective Covenants: Are contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.
52. Service Road: Are minor streets which are parallel and adjacent to thoroughfares and highways, and which provide access to abutting properties and protection from through traffic.
53. Setback: The distance between the lot line and the building line, and/or any projection of the building thereof.
54. Sign: Any outdoor advertising having a permanent location on the ground or attached to or painted on a building, including bulletin boards, billboards and name plates.
55. Story: That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and ceiling next above it.
56. Street: Is a public right-of-way which affords the principal means of access to abutting property.
57. Street, Major: Are those that carry traffic from minor streets to the major system of thoroughfares and highways, including the principal entrance streets of residential districts as shown on the Comprehensive Plan.
58. Street, Cul-de-sac: Is a minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
59. Street, Minor: Are those streets which are used primarily to provide vehicular and pedestrian access to abutting properties, consisting of cul-de-sacs, residential streets and service roads.
60. Street Width: Is the shortest distance between lot lines delineating the street right-of-way.
61. Structure: Anything built, constructed, or erected which requires sidewalk, driveway, parking lot, permanent location on the ground, but not including fences.
62. Subdivider: The owner or party promoting the division of a tract or parcel of land into lots.
63. Subdivision: Is a described tract or parcel of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than five (5) acres in area for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land. The term includes re-subdivision and where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.
64. Tract: A parcel of land intended for division or development of a subdivision.
65. Use: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

66. Variance: The relaxation of the terms of the Zoning Regulations in relation to height, area, size and open spaces where specific physical conditions, unique to the site, would create an unreasonable hardship in the development of the site for permitted uses. The variance will not be contrary to the public interest.
67. Yard: An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building, including any overhangs or projections, shall be used.
68. Yard, Front: A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the front lot line and the front of the main building or any projection of the usual steps, unenclosed balconies, or open porch.
69. Yard, Rear: A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and rear of the main building including any projections other than steps, unenclosed balconies or unenclosed porches, on corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yards shall in all cases be at the opposite end of the lot from the front yard.
70. Yard, Side: The yard extending from the front yard to the rear yard. The depth is measured as the least distance from the side of the principle building and the side lot line.

Chapter 19.02 – General Provisions

19.02.010 Jurisdiction

The provisions of this ordinance shall apply to all structures and land within and one-half mile beyond the city limits of Rolla, North Dakota.

19.02.030 Compliance (Zoning Affects Every Structure and Use)

1. Except as stated in this ordinance, no building, structure or land shall be used and no building or part thereof or structure shall be erected, constructed, reconstructed, occupied, moved, altered or re- paired except in conformance with these regulations.
2. Conformity of Buildings: No building, structure or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.
3. Conformity of Open Spaces: No yard, court or open space, or part thereof, shall be included as part of the yard, court or open space similarly required for any other building, structure or dwelling under this chapter.

19.02.050 Interpretation

In the interpretation and application of this ordinance, the provisions of this ordinance shall be held to the minimum requirements. Where this ordinance imposes a greater restriction than existing law, the provisions of this ordinance shall govern.

19.02.070 Development

The following activities or uses shall constitute development and require a building permit prior to commencement of construction:

1. A change in the type of use of a building, structure or land.
2. A reconstruction or alteration of the size of a building, structure or land, this includes work for the improvement of any building or structure even if the work affects only the interior of the structure.
3. A material increase in the intensity of use of land, such as an increase in the number of businesses, offices or dwelling units in a structure or parcel of land.
4. Commencement of extraction or excavation on a parcel of land.
5. Demolition of a structure.
6. Deposit of refuse, solid or liquid waste or fill on a parcel of land.
7. Alteration of a use which has been abandoned for a period of one year.
8. Alteration or cuts in existing streets, alleys, curbs, or other public place.
9. Feed lots.

The following activities or uses do not constitute development and do not require a building permit prior to commencement of construction:

1. The maintenance or improvement of a public road or railroad tract not involving substantial engineering redesign if the work is carried out on land within the boundaries of the right-of-way.
2. Work for the maintenance, and renewal, of any building or structure, if the work affects only the interior or the decoration of the exterior of the building or structure.
3. The use of land or buildings or any of the normal incidents of farming (ranching, dairy, and general agriculture). This does not exempt accessory buildings and uses customarily incident to farming if within 300 feet of a lot line,

19.02.090 Water and Sewage Facilities

To protect the subsurface water supply from pollution and to protect the public health and safety, and to abate nuisance and odor, the construction of privies and cesspools shall be prohibited in the corporate limits of the city of Rolla. All such future development shall be connected to the sanitary sewer system and subject to the city's regulations regarding their use.

19.02.110 Land Suitability

No land shall be divided, subdivided or developed for a use which is not deemed suitable by the Rolla Planning and Zoning Commission for reasons of soil limitation, inadequate drainage or

any other condition likely to be harmful to the health, safety or welfare of the future residents of the area or harmful to the overall community.

The subdivider or developer as a part of the pre-application procedure for subdivisions must request a determination of land suitability providing that he shall provide all necessary maps, data and information for such a determination to be made.

The Rolla City Council shall deny or approve the recommendations made by the Planning and Zoning Commission in regard to land suitability.

19.02.130 Non-Conforming Uses

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

1. Alterations: Lawful, non-conforming uses of land or buildings existing at the date of adoption of these regulations may continue provided no structural alterations except for normal maintenance are made and such non-conforming uses shall not be extended to occupy a greater area of land than occupied at the time of adoption. (Within the restrictions of this subsection, nothing in this ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Code Administrator, or the North Dakota State Fire Marshall.)
1. Extension: A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this ordinance shall not be deemed the extension of such non-conforming use.
2. Abandonment: No building or structure where a non-conforming use has been discontinued for a period of one (1) year or has changed to a permitted use shall again be devoted to a non-conforming use.
3. Property Destruction: A non-conforming structure destroyed or damaged less than 50% of its fair market value may be reconstructed within 1 year of such casualty. If damaged more than 50% of its fair market value, the non-conforming structures shall be reconstructed in accordance with these regulations.
4. Unlawful Use Not Authorized: Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this chapter.
5. District Changes: The foregoing provisions (one through five) shall not be applicable to conditional uses or any use made non-conforming by a change in regulations. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any

non-conforming uses existing in the area under the different classifications, and all the requirements (1-7) shall be complied with except that the "Certificate of Non-Conforming Use" shall be issued upon the effective date of district boundary changes.

6. Certificate of Nonconforming Use: Upon the effective date of this chapter, the Code Administrator shall issue a "Certificate of Nonconforming Use" to every property owner whose property does not conform to the provisions of the use zone in which the property is located. In accordance with the provisions of this section no use of land, buildings or structures shall be made other than that specified on the "Certificate of Nonconforming Use" unless said use shall be in conformity with the provisions of the use zone in which the property is located. A copy of each "Certificate of Nonconforming Use" shall be filed with the office of the Building Inspector. No permit or license shall be issued to any property for which a "Certificate of Nonconforming Use" has been issued until said permit or license has been approved by the Planning and Zoning Commission.

19.02.150 Conditionally Permitted Uses

Applications for approval of a conditional use shall be submitted to the Rolla Planning and Zoning Commission.

The Rolla Planning and Zoning Commission shall hold a public hearing before action is taken on the application for approval of a conditionally permitted use. Notice of said hearing shall be published in the official newspaper of general circulation at least two weeks prior to the hearing.

No application for a conditional use shall be granted unless the Planning and Zoning Commission shall find all of the following conditions present:

1. The conditional use will not be detrimental to or endanger the public health, safety or general welfare.
2. The existing permitted uses in the neighborhood will not be in any way substantially impaired or diminished by the establishment of the conditional use.
3. The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. The conditional use shall conform to all applicable regulations of the district in which it is located.
7. Based upon their findings of the above listed conditions, the Planning and Zoning Commission shall grant or deny a conditional use.

19.02.170 Amendments

The City Council may from time to time, on its own motion or by recommendation, change, modify, or repeal any of the regulations, restrictions or other provisions thereof, or of the district

map, or the districts on said map, or of the boundaries of such districts. A proposed amendment may be initiated by the Council upon its own motion, or upon receipt of a request therefore from the City Planning and Zoning Commission, or upon receipt of a petition therefore from any interested person or persons of their agents.

1. Report by City Planning and Zoning Commission - Public Hearings: The City Council shall require a report from the City Planning and Zoning Commission on a proposed amendment before taking final action thereon. The City Planning and Zoning Commission shall thereupon make a tentative report and hold a public hearing thereon with notice the same required for a public hearing by the governing body, before submitting its final report. Such final report shall be submitted within 90 days after the time of referral of the proposed amendments to the City Planning and Zoning Commission unless the City Council is agreeable to an extension of time.
2. Action By Governing Body-Public Hearing: After the receipt of the required final report on any amendment from the City Planning and Zoning Commission, or in the event of the failure of the City Planning and Zoning Commission to so report within 90 days following the time of referral of the proposed amendment to the City Planning and Zoning Commission, the governing body shall hold a public hearing, after which the proposed amendment may be passed. Not less than 15 days' notice of the time and place of holding such public hearings shall first be published in the official newspaper. A hearing shall be granted to any person interested, and the time and place specified.
3. Vote After Protest: If a protest against an amendment or repeal is filed and signed by owners of 20% or more:
 - a. Of the area of the lots included in such proposed change; or
 - b. Of the area adjacent, extending one hundred fifty feet (45.72 meters) from the area to be changed, excluding the width of streets.

The amendment shall not become effective except by the favorable vote of three-fourths of all the members of the governing body of the city.

Chapter 19.04 – Zoning Districts

19.04.010 Purpose

For the purpose of this Zoning Ordinance, the city of Rolla is divided into the following zoning districts:

A	--	Agricultural District
R-1	--	Low Density, Residential District
R-2	--	High Density, Residential District
RMH	--	Mobile Home Residential District
C-1	--	Central Business Commercial District
C-2	--	Highway Commercial District
I	--	Industrial District

19.04.030 Maps and Boundaries

The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of the City of Rolla" on file in the office of the City Auditor. This map with all explanatory matter thereon, shall be deemed to accompany, be and is hereby made a part of this chapter.

1. Location of Zoning District Boundaries: The following rule shall apply with respect to the boundaries of the zoning districts as shown on the Zoning Map.
 - a. The zoning district boundary lines of said map are intended to follow lot lines, the centerlines of streets or alleys, the centerlines of streets or alleys projected, railroad right-of- ways, or the corporate limit lines, all as they existed at the time of enactment of the zoning ordinance. In unsubdivided property and where a district boundary line does not clearly coincide with lot lines, it shall be determined by use of the scale on the map.
 - b. Questions concerning the exact location of district boundary lines shall be determined by the Planning and Zoning Commission according to rules and regulations which it may adopt.
2. Annexed Property: Property which has not been included within a district and which has become a part of the city by annexation shall automatically be classified as lying and being in the R-1 residential district until such classification has been changed by an amendment to the Zoning District map as prescribed by law.

19.04.050 Agricultural District (A)

1. PURPOSE: To establish and preserve areas of agriculture and low intensity development which does not significantly change the existing character of the area and secures economy in governmental expenditures for public services, utilities, and schools.
2. PERMITTED USES:
 - a. General farming operations including farm dwellings and agricultural buildings, nurseries and tree farms. Any shelter belts to be planted within 200 feet from the center line of roads shall require a permit and may be approved.
 - b. Single family dwellings related to an individual farming operation.
 - c. Single family non-farm dwellings on a tract of land of five acres or larger.
 - d. Airports and heliports
 - e. Public parks and other public buildings and public or quasi-public recreational facilities.
 - f. Storage of agricultural products and minor handling according to State Health Department regulations.
 - g. Home occupations and accessory uses customarily incident to the uses permitted in this district but not including feedlots or other concentrated animal feeding operations.
3. CONDITIONALLY PERMITTED USES:
 - a. Feed lots and other concentrated animal feeding operations provided they meet the following requirements.

- i. No unusual amount of odor or noise shall be disseminated beyond the boundaries of the premises on which the use is located.
 - ii. Storage of manure shall not be permitted within one hundred fifty (150) feet of any lot line.
 - iii. All corrals, pens and buildings shall be located at least one hundred fifty (150) feet from any lot line.
 - iv. When the application for feed yards is filed with the Planning and Zoning Commission the applicant shall present a plan showing the proposed development. Included in the plan shall be the following:
 - 1. Topographic map showing two foot contours.
 - 2. Drainage plan.
 - 3. Location of existing utilities and proposed utility extensions.
 - 4. Letters of commitment or intent from the utility companies concerning satisfactory water and sanitary sewer service or from the Rolette County Health department concerning satisfactory wells and septic tanks.
 - 5. Plat showing dimensions and locations of all structures, existing or proposed, on the tract of land.
 - 6. Parking and loading plan defining off-street parking and loading areas.
 - 7. Driveway plan indicating all interior driveways, curb cuts and area for maneuvering trucks.
 - 8. All plans, plot plans and petitions as required must be submitted at least thirty (30) days prior to the hearing date before the Planning and Zoning Commission.
 - 9. The Planning and Zoning Commission may in addition prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary.
- b. Animal hospital or kennel
- c. Riding academies and stables
- d. Mineral extraction including sand and gravel by any commercial operation
- e. Churches, schools, educational, religious and philanthropic institutions, but not including penal or mental institutions
- f. Cemetery or crematory
- g. Grain elevator
- h. Wrecking, salvage or junkyard
- i. Other uses of the same nature that are classed as those listed above in "Permitted Uses" section, which in the opinion of the Planning and Zoning Commission as evidenced by a resolution of record, are not obnoxious or detrimental to the health, safety, morals, or the general welfare of the area than those uses listed as permitted uses.
- j. Drive-in Theater Provided: The use is not within 660 yards of any residence; or residential district, the parking area shall be surfaced with a dust free material, and plans for the arrangement of entrances, exits, and parking stalls shall accompany the request for a conditional use permit.

- k. Anhydrous Ammonia Storage Facility Provided: The use is not within 660 yards of the city's incorporated limits and meets all state and federal requirements regarding the safe handling and storage of this material.
- l. Utility lines and facilities for public service, also including non-farm storage facilities unrelated to public services, but excluding storage of hazardous chemicals.

4. MINIMUM DIMENSIONAL STANDARDS

Yard, Front: 150 feet from all section lines and the centerlines of township and county roads. 250 feet from the center line of all state and federal highways.

Yard, Side: Forty (40) feet

Yard, Rear: Forty (40) feet

Lot Size: 5 Acres

Lot Width: 380 feet

5. MAXIMUM HEIGHT:

No residential structure shall exceed thirty-five (35) feet

19.04.050 Low-Density, Residential District (R-1):

1. PURPOSE: To establish and preserve quiet, uncongested one and two family residential neighborhoods protected from excess traffic hazards and the intrusion of incompatible land uses.
2. PERMITTED USES:
 - a. One and two family residences, customary accessory uses and home occupations excluding mobile homes.
 - b. Schools, parks, playgrounds and other publicly owned and operated recreational buildings.
 - c. Churches.
3. CONDITIONALLY PERMITTED USES:
 - a. Hospitals, clinics, convalescent and nursing homes
 - b. Cemeteries and greenhouses
 - c. Electric substation, water storage tanks, water pumping stations and sewer lift stations, fire stations and telephone exchanges without shop, garages, or administrative offices.
 - d. Day care facilities and Senior Citizen's facilities

4. MINIMUM DIMENSIONAL STANDARDS:

Yard, Front: 25 feet

Yard Side: 5 feet for main buildings; 3 feet for accessory uses.
Yard, Rear: 25 feet for main buildings; 3 feet for accessory uses.
Lot Width: 50 feet
Lot Depth: 100 feet
Lot Coverage: Not more than 50% of a lot shall be occupied by buildings.
Area of Lot: 7500 sq. feet

Lots fronting on curvilinear streets shall have a minimum frontage of 38 feet and a 50 foot width at the building line.

On double frontage lots, the required front yard shall be provided on both streets.

Except for corner lots of record at the date of this ordinance, the front yard on the side street may be reduced to a depth of not less than 20 feet.

5. PARKING REQUIREMENTS:

One off-street parking space shall be provided for each dwelling unit on the premises, exclusive of required yards.

6. HEIGHT, MAXIMUM:

No residential structure shall exceed two and one-half stories or 35 feet, other structures may be of a height which does not conflict with airport requirements

19.04.070 High-Density Residential District (R-2)

1. PURPOSE: To establish and preserve residential neighborhoods which allow for varied types of residential development.

2. PERMITTED USES:

- a. All R-1 permitted uses, and multi-family residences.
- b. Boarding or lodging houses and group housing projects.
- c. Educational, religious, or philanthropic institutions, but not including penal or mental institutions
- d. Hospitals, clinics, convalescent and nursing homes.
- e. Accessory storage garages or other accessory uses customarily incident to the uses permitted in this district.

3. CONDITIONALLY PERMITTED USES:

- a. Non-profit clubs or lodges
- b. Day Care facilities and Senior Citizen's facilities
- c. Quasi-public recreational facilities
- d. Electric substations, fire stations, police stations, garages or administrative offices.

4. MINIMUM DIMENSIONAL STANDARDS:

Yard, Front: Same as R-1 District, except any building exceeding three stories in height, shall have an additional front yard setback of one foot for every one foot the building exceeds the height of 35 feet.

Yard, Side: Same as R-1 District, except that any building exceeding three stories in height shall have an additional side yard setback of one foot for every one foot the building exceeds a height of 35 feet.

Yard, Rear: Same as R-1 District

Lot Width: Same as R-1 District

Lot Depth: Same as R-1 District

Lot Coverage: Not more than fifty (50) percent of a lot shall be occupied by buildings.

Area of Lot: Same as R-1 District. For each additional multi-family unit after two, the following additional lot area shall be required: 1000 sq. feet per one bedroom; 1,300 sq. feet per two bedroom; 1,500 sq. feet per three bedroom. Regulations for corner lots, double frontage lots and lots fronting on curvilinear street are the same as in R-1 district regulations.

5. PARKING REQUIREMENTS:

One and one-half parking spaces per multi-family dwelling unit.

6. MAXIMUM HEIGHT:

Structures shall neither exceed four stories or 45 feet in height, nor shall any structure be in conflict with airport requirements.

19.04.090 Mobile Home Residential District (RMH)

1. PURPOSE: To establish and preserve an individual area or areas within the city for mobile homes and mobile home park development which will not have negative impact on the rest of the community and, at the same time, provide ample room and compatible utilities for such development.
2. PERMITTED USES:
 - a. Mobile home parks (not to include recreational vehicles); parks and playgrounds.
 - b. Mobile home service buildings such as coin operated washers and dryers, for use of residents of the mobile home park.
 - c. Office for manager of the mobile home park.
 - d. Storage building used for storage of vehicles used to tow mobile homes.

- e. Storage buildings for blocks, skirts, pipe and other material and equipment required to set a mobile home.
- f. Accessory uses and buildings including swimming pools, bath houses, patios, etc., for use of mobile home residents.

3. MOBILE HOME PARK REQUIREMENTS:

- a. Mobile home parks shall contain a minimum of five (5) acres of land and a maximum of eight (8) mobile homes per gross acre.
- b. A minimum of ten (10) percent of the gross site area shall be devoted to open space and recreational facilities.
- c. Each mobile home space shall be at least 40 feet wide and an area of 5,000 square feet.
- d. There shall be a minimum of 15 feet between structures.
- e. No building shall exceed 35 feet in height.
- f. Underground utility hookups shall be provided to each lot in the park. These utilities shall include water, sewer, electricity and telephone.
- g. Off-street parking of one parking space for each mobile home unit shall be provided and one additional space for every four units.
- h. All lots in the park shall be accessible at all times to emergency vehicles.
- i. Each mobile home shall have a setback of a minimum of ten feet within the park and 25 feet setback from other public roads adjoining the mobile home park.
- j. Where the park is served by private streets, those streets shall conform to the following:
 - i. Where parking is to be allowed on both sides of the street, a driving surface of 34 feet within a 40 feet right-of-way shall be provided.
 - ii. Where parking is prohibited on both sides of the street, a driving surface of 24 feet within a 30 feet right-of-way shall be provided.
- k. Each mobile home space shall be provided with garbage stands and cans.
- l. All regulations of North Dakota Regulatory Agencies and Departments relating to mobile homes shall be complied with.

19.04.110 Central Business Commercial District (C-1)

- 1. PURPOSE: The C-1 District is intended to reserve an area for the grouping of businesses and personal services into a concentrated area serving the shopping needs of the city and surrounding trade area.
- 2. PERMITTED USES:
 - a. Any commercial business or service including but not limited to hardware, clothing, bakeries, eating and drinking places, professional offices, hotels, places of assembly, public buildings, public utilities and transportation and communication facilities.
 - b. Day Nursery or childcare center
 - c. Commercial and public parking lots

- d. Secondary building use (not involving open storage) when located on the same lot or other accessory uses customarily incident of the uses provided for in this district.

3. CONDITIONALLY PERMITTED USES:

- a. Sleeping rooms, apartments or owner-occupied residences in commercial buildings or service establishments, provided that the above uses are secondary to the main commercial use of the building and occupy less than fifty (50) percent of the main floor.
- b. Storage facilities for building materials such as lumber, steel, concrete blocks or pipe provided that these materials are either:
 - i. Enclosed by a wall or fence equal in height to the highest pile of materials stored by not less than five (5) feet high;
 - ii. Stored in an enclosed structure.
- c. Enterprises or businesses of the same nature or class as those permitted uses, which in the opinion of the Planning and Zoning Commission, as evidenced by a resolution of record, are not of a different intensity of use or character or are more obnoxious or detrimental to the welfare of the area than existing businesses.
- d. Housing projects may be approved, but only if a part of a planned concept in accordance with the comprehensive plan. Such projects will be exempted from the restrictions normally applied to multiple dwellings, provided that such projects shall be approved as a total concept and shall observe such standards not to materially affect adversely the health or safety of persons residing or working in the neighborhood of the proposed project and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

In each of the above instances, the Planning and Zoning Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show the location of improvements on the site, the height and bulk of structures propose, description and placement of screening or screen planting, availability of utilities if applicable, a statement of the time sequence of development and when necessary, environmental impact on properties in the immediate vicinity.

The Planning and Zoning Commission may in addition prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Planning and Zoning Commission.

4. MINIMUM DIMENSIONAL STANDARDS:

- a. Yards:
 - i. Front – None
 - ii. Rear - None if abutting an alley, otherwise 10 feet; except where adjoining an R1, R2 or RMH District; then same as R1, R2 or RMH District.
 - iii. Side - None except where adjoining an R1, R2 or RMH District; then same as R1, R2 or RMH District.
- b. Lot Sizes: No minimum

5. MAXIMUM HEIGHT:

No building shall exceed five (5) stories or sixty-five (65) feet.

19.04.130 Highway Commercial District (C-2)

1. PURPOSE: The C-2 District is intended for commercial activities which might be incompatible with uses in the central business district by reason of traffic considerations, marketing characteristics, and area requirements and other characteristics inherent in these uses. Such commercial activities normally require a considerable amount of on-site storage or parking and would otherwise cause conflicts if located in the downtown central business district (C-1 District).

2. PERMITTED USES:

Restaurants and other eating establishments, motels, service stations, automobile repair garages, auto sales, farm machinery, building supply yards, wholesaling of products, commercial garages and warehousing.

Commercial recreation, including bowling alleys, dance halls, and skating rinks.

3. CONDITIONALLY PERMITTED USES:

- a. Enterprises or businesses of the same nature or class as those listed in the above section "Permitted Uses" which in the opinion of the Planning and Zoning Commission, as evidenced by a resolution of record, are not more obnoxious or detrimental to the welfare of the area than those listed in above said section. Other types of retail sales and services shall be encouraged to locate in the Central Business District.
- b. Water supply buildings, wells, elevated tanks and similar essential public utility and service structures.

In each of the above instances, the Planning and Zoning Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show the location of improvements on the site, the height and bulk of structures proposed, description and placement of screening or screen planting, availability of utilities is applicable, a statement of the time sequence of development and when necessary, environmental impact on properties in the immediate vicinity.

The Planning and Zoning Commission may in addition prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Planning and Zoning Commission.

4. MINIMUM DIMENSIONAL STANDARDS:

Yard, Front: Thirty (30) feet

Yard, Side: Ten (10) feet is required, except on corner lots, in which case there shall be a side yard of not less than thirty (30) feet.

Yard, Rear: Thirty (30) feet

Lot Size: No minimum

5. INTENSITY OF USE REGULATIONS:

A buffer strip, which is approved by the Planning and Zoning Commission, shall provide a slight and sound barrier when a commercial is abutting a residential district. The buffer strip shall be adequately maintained by the property owner.

6. MAXIMUM HEIGHT:

No structure shall exceed three (3) stories or forty-five (45) feet.

19.04.150 Industrial District

1. **PURPOSE:** It is the intent of this district to establish and preserve areas with good public transportation facilities such as highway and rail for industrial development in locations not incompatible with other zoning districts, and at standards that will not impair the traffic carrying capabilities of abutting roads and highways. It is recognized that industrial uses are an important part of the region's land use pattern. The regulations for this district are intended to encourage industrial development that is compatible with surrounding or adjoining districts.

2. PERMITTED USES:

1. Agriculture, grain elevators, lumber yards, trucking, rail and freight terminals, storage of oil, gasoline and petroleum products, commercial garages, warehouses, and any kind of scientific research or manufacture, compounding, assembling, reprocessing, fabrication, packaging or treatment of products, wholesaling, retailing associated with wholesaling, jobbing, manufacturing or processing industries provided the following limitations are placed on all such uses:
 - i. They do not cause injurious or obnoxious noise, vibration, smoke, gas fumes, odor, dust, fire hazard or other objectional conditions to present industrial development or to residential district in the vicinity.
 - ii. Areas of outdoor storage and storage of equipment shall be concealed from view from abutting rights-of-way and adjoining residential districts.
2. Dwelling units, for watchmen and their families, located on the premises where they are employed in such capacity.
3. Accessory uses customarily incident to the above cases are of the same nature as those enumerated above.

3. CONDITIONALLY PERMITTED USES:

1. Automobile salvage and wrecking operations, industrial and waste salvage operations, and junk yards provided a wall or fence encloses these operations from public view that is at least six feet high.
2. Water supply buildings, wells, elevated tanks and similar essential public utility and service structures.
3. Industrial enterprises or businesses of the same nature or class as those listed in the above section, "Permitted Uses", which in the opinion of the Planning and Zoning Commission, as listed in the Resolution of Record, are not more obnoxious or detrimental to the welfare of the area than those listed in above said section.

In each of the above instances, the Planning and Zoning Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show the location of improvements on the site, the height and bulk of structures proposed, description and placement of screening or screen planting, availability of utilities if applicable, a statement of the time sequence of development and when necessary, environmental impact on properties in the immediate vicinity.

The Planning and Zoning Commission may in addition prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Planning and Zoning Commission.

4. MINIMUM DIMENSIONAL STANDARDS:

Yard, Front: Thirty (30) feet
Yard, Side: Ten (10) feet
Yard, Rear: Ten (10) feet
Lot Size: No minimum

5. INTENSITY OF USE REGULATIONS:

A buffer strip, which is approved by the Planning and Zoning Commission, shall provide a sight and sound barrier when an industrial use is abutting a residential district. The buffer strip shall be adequately maintained by the property owner.

6. MAXIMUM HEIGHT:

Four (4) stories or fifty-five (55) feet except such limitation does not apply to buildings used for grain storage.

19.04.170 Special Regulations

1. General – the zoning district requirement hereinafter set forth in this section qualify or supplement, as the case may be, the District Regulations appearing elsewhere in these regulations.

2. Off Street Parking and Unloading - no building shall be erected, enlarged to the extent of increasing the floor area by as much as fifty (50) percent, or changed in use unless there is provided on the lot, space for the parking of automobiles or trucks in accordance with the following minimum requirements:
 - a. Bowling alley, five parking spaces for each lane.
 - b. Business, professional or public office building, studio, bank, medical or dental clinic, three parking spaces plus one additional parking space for each four hundred (400) square feet of floor area over one thousand (1,000) feet.
 - c. Church, one parking space for each eight seats in the main auditorium.
 - d. College or school, one parking space for each eight seats in the main auditorium or three spaces for each classroom whichever is greater.
 - e. Community center, library, museum or art gallery, ten parking spaces plus one additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet.
 - f. Dwellings, multi-family, one and one-half parking space for each dwelling unit.
 - g. Hospital, sanitarium, home for the aged, or similar institution, one parking space for each three beds,
 - h. Hotel, one parking space for each three sleeping rooms of suites plus one parking space for each two hundred (200) square feet of commercial floor area contained therein.
 - i. Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment, one parking space for every two employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith.
 - j. Mortuary or funeral home, one parking space for each fifty (50) square feet of floor space in slumber rooms, parlors, and individual funeral service rooms.
 - k. Private club or lodge, one parking space for every ten members.
 - l. Restaurant, night club, cafe or similar recreation or amusement establishment, one parking space for each one hundred (100) square feet of floor area.
 - m. Retail store or personal service establishment, one parking space for each two hundred (200) square feet of floor area.
 - n. Sports arena, stadium or gymnasium (except school), one parking space for each five seat for seating spaces.
3. Lighting: Outdoor lighting shall be directed away from the public right-of-way and nearby or adjacent Residential Districts.
4. Outdoor Audio Systems: Fixed in place, shall be directed away from the public right-of-way and nearby or adjacent Residential Districts.
5. Required Site Plan: Any application for a building permit or for a certificate of occupancy shall include a site plan or plat plan showing off-street parking and loading space to be provided in compliance with this Ordinance

6. Application of Parking and Loading Regulations: Off-street parking and loading regulations shall apply to all buildings, and uses of land established after the effective date of this Ordinance.

Chapter 19.06 – Subdivision Regulations

19.06.010 Introduction

1. Purpose: The purpose of these regulations is to promote the health, safety, and general welfare of the City of Rolla as well as to guide the orderly future growth and development of the city; promote proper land use density; provide for adequate light, air, and privacy; secure safety from flood and fire; and guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage disposal, schools, parks, playgrounds, recreation, drainage, and other public facilities.

Regulations are adopted under the authority of 40-50 of the North Dakota Century Code.

19.06.030 Procedure for Subdivision Approval

1. Preliminary Plat
 - a. The subdivider shall prepare a preliminary plat and file an application for approval with the Planning and Zoning Commission. The application shall include all data required by these regulations accompanied by a copy of the plat. The preliminary plat shall include all contiguous lands owned or controlled by the subdivider even if only a part of it is proposed for development at that time. The Planning and Zoning Commission shall within thirty (30) days from date submitted, approve, conditionally approve, or reject the preliminary plat based on conformance of these regulations.
 - b. The preliminary plat shall be prepared by a registered land surveyor.
 - i. The name and address of the owner or owners of land to be subdivided, the name and address of the subdivider if other than the owner, and the name of the land surveyor;
 - ii. The date of the map, north arrow, scale, and proposed title of subdivision;
 - iii. An accurate metes and bounds description of the property;
 - iv. The location of property with respect to surrounding property and streets, the names of all adjoining property owners of record or the names of adjoining developments; the names of adjoining streets;
 - v. The location of existing streets, easements, water bodies, streams, Special Flood Hazard Areas obtained from the F.I.A. or best alternate source in the absence of F.I.A. data and other pertinent features such as swamps, wooded areas, railroads, buildings, parks, cemeteries, drainage ditches, bridges and the 100-year flood plain;
 - vi. The location and width of all proposed streets and easements, alleys, other public ways and proposed street rights-of-way;
 - vii. Proposed street identification;

- viii. The location, dimensions, and areas of all proposed or existing lots;
- ix. Indication of the use of any lot (single-family, two-family, multi-family, townhouse), and all uses other than residential proposed by the subdivider;
- x. Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions. All lots in each block consecutively numbered. All lots shall include proposed street addresses;
- xi. The location, dimensions, and area of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof, and conditions, of any of the dedication or reservation;
- xii. Identification of existing sewers, water mains, culvert, other underground structures, utility poles on or immediately adjacent to the tract as determined by the city engineer and utility representatives;
- xiii. Preliminary proposals for connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal, preliminary provisions for collecting and discharging surface water drainage;
- xiv. The following notation shall also be shown:
 - 1. Explanation of drainage easements, if any.
 - 2. Explanation of site easements, if any.
 - 3. Explanation of reservations, if any.
 - 4. Endorsement of owner;
 - 5. Location of sidewalks.
 - 6. Curbs & gutter.
 - 7. All utility services.
- xv. The lack of information under any item specified herein or erroneous information supplied by the applicant shall be cause for disapproval of a preliminary map.

2. Final Plat:

- a. If the preliminary plat has been approved or approved conditionally, the subdivider shall submit a copy of the final plat to the Planning Commission. The Planning and Zoning Commission shall hold a public hearing as required by the North Dakota Century Code before action on the final plat is taken. Notice of the hearing shall be made in the official city newspaper fifteen (15) days prior to the public hearing. If the final plat meets the requirements of these regulations and any conditions that may have been attached in the case of a preliminary plat given conditional approval, the Planning and Zoning Commission shall recommend approval of the plat to the City Council.
- b. The City Council shall hold a public hearing on all final plats and shall publish a notice of public hearing in the official city newspaper at least fifteen (15) days prior to the hearing. The City Council shall within thirty (30) days of its initial consideration approve, deny, or refer the plat back to the Planning and Zoning Commission as presented.

- c. The final plat shall be approved by the City Council within sixty days on which the preliminary plat was approved by the Planning and Zoning Commission. The final plat shall be filed in the office of the County Register of Deeds within six (6) months after approval of the City Council, and if not filed within such time the final plat approval shall be considered null and void.
- d. The final plat of the proposed subdivision shall be prepared by a registered land surveyor or engineer and shall conform to the requirements of the preliminary plat and any conditions attached by the Planning Commission.
- e. The final subdivision plat shall be presented in an acceptable form.
- f. Endorsements shall include the City Engineer and the Chairman of the Planning and Zoning Commission. The final plat shall also be endorsed by the President of the City Council and the City Auditor as follows:

Approved this _____ day of _____

Mayor, City of Rolla

Attest: _____
Auditor, City of Rolla

19.06.050 Platting Standards

1. Character of Land: The Planning and Zoning Commission shall not allow the subdivision of land which is unsuitable for development due to flooding, improper drainage, steep slopes, soil types, adverse earth formations, topography, utility easements, or other features which may be harmful to the present or future inhabitants of the subdivision and/or surrounding area. If adequate methods to overcome this unsuitability are formulated by the developer and approved by the City Engineer, the Planning and Zoning Commission may approve the development on the conditions that these measures are carried out.
2. Design Standards:
 - a. Streets:
 - i. The arrangement, character, extent, width, grade and location of all streets shall be related to topographic conditions; existing natural features including wetlands, marshes, and tree growths; public convenience and safety; existing and proposed uses of land served by streets; and to the most advantageous development of adjoining uses.
 - ii. The arrangement of streets in a subdivision shall provide, where possible, for the continuation or appropriate extension of existing and proposed streets in the city.
 - iii. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way; the city may require a street approximately parallel to and on side of such right-of-way, at a distance suitable for the appropriate use of the intervening land.

- iv. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 75 degrees, and no more than two streets shall intersect at one point.
- v. Temporary dead-end streets shall not be permitted without a suitable turn-around with a diameter of not less than 120 feet. Appropriate arrangements shall be made for those parts of temporary turn-arounds outside of street rights-of-way to revert to the abutting property owners at such times as streets shall be extended. Temporary dead-end streets shall not exceed 800 feet in length measured from the nearest street right-of-way to the end of the street turn-around.
- vi. Cul-de-Sacs shall not exceed 600 feet in length measured from the nearest street right-of-way to the end of the street turn-around. The minimum diameter of the street turn-around shall be 120 feet and the street right-of-way shall be 140 feet.
- vii. No street identification shall be used which will duplicate or be confused with the names of existing streets in the city.
- viii. The width of the streets shall be not less than 80 feet for major streets and 66 feet for minor streets.
- ix. All alleys, where provided, shall have a public right-of-way of 30 feet.
- b. Utility Easements:
 - i. Easements across lots shall be provided for utilities and shall be 30 feet wide. Easements along rear and side lines shall be at least 15 feet wide on each side of the lot line and Easements shall be designated as "Utility Easement" on the plat.
 - ii. All utility lines for electric power and telephone service whether underground or overhead on poles shall be placed in the utility easements.
- c. Drainage-Way Easements:
 - i. Where a subdivision is traversed by a water course, a drainageway or wetland, there shall be provided an adequate drainageway easement as required by the Planning and Zoning Commission.
 - ii. The location, width, alignment and grading of such easements shall be of such a width and design to accommodate the anticipated discharge from the property being subdivided and also the anticipated run-off that may occur when property at a higher elevation in the drainage basin is developed.
- d. Blocks:
 - i. The length, width and shape of blocks shall be suited to the planned use of land, zoning requirements, convenient access, control and safety of street traffic and the limitations and opportunities of topography.
 - ii. Block lengths shall not exceed 1,100 feet or be less than 450 feet.
- e. Lots:
 - i. Lot dimensions shall conform to the requirements of the zoning ordinance.
 - ii. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the zoning ordinance.
 - iii. Every lot shall front or abut a public street.

- iv. Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
 - v. Side lot lines shall be substantially at right angles or radial to street lines.
 - vi. Corner lots shall have an extra width of ten (10) feet over the-minimum requirements to permit adequate building setbacks from side streets.
3. Required Improvements:
- a. Survey Monuments: Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as required by the Planning Commission.
 - b. Grading: All streets shall be graded in accordance with plans and specifications of the city.
 - c. Installation of Improvements: The improvements specified herein shall be installed, and approval of the final plat shall be given only after work has been completed.

19.06.070 General Provisions

- 1. Jurisdiction: These subdivision regulations shall apply to all subdivisions of land located within the corporate limits of the City of Rolla, North Dakota, and within the one-half (½) miles extraterritorial jurisdiction.
- 2. Compliance:
 - a. No land shall be subdivided within the jurisdiction of the City of Rolla until the following conditions have been met:
 - i. The subdivider has obtained approval of the preliminary plat by the Planning and Zoning Commission;
 - ii. A public hearing has been held and the subdivider has obtained approval of the final plat by the Planning and Zoning Commission;
 - iii. The City Council has reviewed the final plat, held a public hearing, and has approved the plat;
 - b. No building permit shall be issued for any parcel or plat of land which was created by subdivision after the effective date of the provisions of these subdivision regulations, and which is not in conformance with these regulations.
 - c. No excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with these regulations.
- 3. Severability: If any provision or section of these regulations is found invalid by a court of competent jurisdiction, the remainder of the regulations shall not be affected.
- 4. Interpretation: In interpreting and applying these regulations, the provisions shall be held to be the minimum requirements for the promotion of public health, safety and general welfare.
- 5. Conflict with Public Provisions: Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule or regulation, those provisions which are more restrictive or impose higher standards shall control.

6. Conflict with Private Provisions: Where the provisions of these regulations are more restrictive or impose higher standards or regulations than a private easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern.
7. Variances:
 - a. General: The Planning and Zoning Commission may find that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal. It may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations. The Planning and Zoning Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:
 - i. The granting of the variance would not be detrimental to the public safety, health or welfare, and not be injurious to other property located adjacent to the proposed modification.
 - ii. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a mere inconvenience, if the strict letter of these regulations are carried out.
 - iii. The variance is consistent with provisions of the Zoning ordinance and proper development of the area.
 - b. Planned Unit Developments: If a planned unit development of over ten (10) acres in a single ownership is proposed, detailed site plans showing the location of access, streets, buildings, parking facilities, recreational facilities and landscaping areas shall be submitted to the Planning and Zoning Commission for review, together with detailed information as to proposed use and occupancy. After a public hearing thereon, if the Planning and Zoning Commission finds that the interests of the community in good design, environmental amenity and efficiency of public services would be enhanced thereby, the Planning and Zoning Commission may waive one or more of the subdivision regulations (excepting the requirements for the installation of improvements) or may establish additional conditions to be met by the development plan. In approving such a development plan the Planning and Zoning Commission shall be assured that it provides and dedicates adequate open spaces and improvements for circulation, parking, recreation, education and service needs of the tract when fully developed and that such covenants, financial and legal guarantees are provided that will assure that the plan will be followed and achieved.
 - c. Conditions: In approving variances, the Planning and Zoning Commission may require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements of these regulations.
 - d. Procedures: A petition for any such variance shall be submitted in writing by the subdivider for the consideration of the Planning and Zoning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.
8. Enforcement:

- a. It shall be the duty of the City Council to enforce these regulations and to bring to the attention of the City Attorney any violations or lack of compliance herewith.
 - b. Appropriate actions and proceedings may be taken by law or in equity to prevent any violations of these regulations; to prevent unlawful construction; to recover damages; to restrain, correct, or abate a violation; and to prevent illegal occupancy of a building, structure, or premise.
9. Fees: The subdivider shall pay to the City Auditor a fee to be determined by the City Council.

Chapter 19.08 – Administration and Enforcement

The administration and enforcement of the Zoning Ordinance is hereby vested in the Rolla City Council, the Code Administrator, and the Planning and Zoning Commission.

Chapter 19.08.010 Rolla City Council

- 1. Duties Under This Code:
 - a. Approve or deny all final plats and building permits.
 - b. All amendments to the text of these regulations and the "Zoning District Map" shall be approved by the City Council after a report from the City Planning and Zoning Commission and a public hearing.
 - c. Investigate and note the violation of the provisions of these regulations and take action.
 - d. Approval of all building permits except residential permits under 2500 sq ft.

Chapter 19.08.030 Planning and Zoning Commission

- 1. Membership:
 - a. The planning commission shall consist of five members, as appointed by the Mayor with the approval of the City Council, and in addition thereto the Mayor, the City Engineer and the City Attorney shall be ex officio members of the planning commission. In addition to the members appointed by the city the planning commission shall include one person residing outside of the corporate limits of the city but within the territorial limits of the subdivision authority as is exercised by the city, if such a person is available and willing to serve on the planning commission. Such person shall be appointed by the board of county commissioners.
- 2. Duties Under This Code:
 - a. Establish rules and procedures for administering the Zoning Ordinance.
 - b. Hold public hearings on all applications for subdivision plats, amending the "Zoning District Map" and the text of these regulations.
 - c. Recommend approval, denial or modification of all applications for amendment after the public hearing to the City Council.
 - d. Publish notice of the public hearings in the official municipal newspaper of general circulation once a week for two successive weeks before the time set for the hearing.

- e. Initiate and review from time to time a study of the provisions of these regulations and make recommendations to the City Council.
- f. Review, update and implement the Rolla Comprehensive Plan.
- g. May issue a variance only as permitted in the Ordinance.
- h. May issue conditional use permits as permitted in this ordinance.

19.08.070 Code Administrator

1. Appointment: The code administrator shall be the City Auditor, Building Inspector, and City Manager, if one shall exist.
2. Duties Under This Code:
 - a. Receive and file all applications for plats of subdivisions amendments to these regulations, the "Zoning District Map" and building permits.
 - b. Inspect buildings and maintain records.
 - c. File complaints against any person, persons, firm or corporation for violation of any of the provisions of any of the regulations over which he (she) has been granted jurisdiction.
 - d. Issue certificates of compliance.
 - e. Report all zoning violations to the City Attorney and the City Council for appropriate action.
 - f. Approve residential building permits up to 2500 sq ft.

19.08.090 Building of Development Permit Fee

1. It shall be unlawful for any person to begin any development or building without obtaining a building permit.
2. The "Uniform Building Code, 1994 Edition, Volumes 1, 2, and 3, International Conference of Building Officials, with future updates, are adopted as the building code and mechanical code of the City of Rolla for the regulation of the erection, constructions, enlargement, equipment, use, height, area, and maintenance of buildings and/or structures in the City of Rolla.
3. Building permit fees shall be as follows:
 - a. The fee for any residential structure up to \$5,000 value shall be \$30.
 - b. The fee for any residential structure from \$5,001-\$25,000 value shall be \$60.
 - c. The fee for any residential structure over \$25,000 value shall be \$60 + .5 cents/sq ft.
 - d. The fee for any commercial building under \$25,000 value shall be \$120.
 - e. The fee for any commercial building over \$25,000 value shall be \$120 + .10 cents/sq ft.
 - f. Extra Territorial Jurisdiction area of ½ mile shall be a \$50 flat rate
 - g. Demolition or removal – Residential \$30, Commercial \$120
4. Where work for which a permit is required, is proceeded with or started prior to obtaining a building permit from the City of Rolla, the fees above specified shall be doubled, but the payment of such doubled fee shall not relieve any person from fully complying with the requirements of the Uniform Building Code in the execution of the work or from any other penalties described in the building code. The building contractor or person hired by

the owner to perform the construction work shall be liable for all criminal penalties and all civil penalties provided herein, and provided in said Uniform Building Code, for the offense of commencing construction without a building permit and for any other offense provided in the Uniform Building Code; and further, if a building contractor or person hired by the owner to perform construction work shall fail to securely post a copy of the building permit on the construction site at commencement of construction, he shall be guilty of an infraction for which the shall be not less than \$25.00 nor more than \$100.00. The owner of any property in the City of Rolla who permits the commencement of any construction on his property without a building permit shall likewise be subject to all civil and criminal penalties provided herein, and provided in said Uniform Build Building Code.

19.08.130 Violations and Penalties

1. It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the Rolla City Council pursuant thereto. Violation thereof shall be an infraction and may be punishable by a fine of not to exceed five hundred dollars (\$500.00) for each and every day that any violator fails to comply with the provisions of these regulations. The City Council shall set by resolution the fine to be paid for each type of violation. Whenever a violation of these regulations occurs, any person may file a complaint in regard hereto. All fines for violation shall be paid to the Rolla City Auditor and shall be credited to the general fund of the city.

Chapter 19.10 – Application of Zoning Regulations to Unincorporated Territory Located Within One-Half Mile of City Limits

19.10.010 Zoning Authority Within One-Half Mile of City Limits

As authorized by Section 40-47-01.1 of the North Dakota Century Code, as amended the territorial jurisdiction of the City of Rolla for land use zoning is declared to be, in addition to the entire area within the corporate limits of the City of Rolla, the unincorporated territory adjacent thereto located within one-half mile of its limits in any direction, and the zoning regulations of the City of Rolla, North Dakota are hereby extended to the unincorporated territory located within one-half mile of the corporate limits of the City of Rolla in any direction.

19.10.030 Subdivision Regulation Within One-Half Mile of City Limits

As authorized by Section 40-48-18 of the North Dakota Century Code, as amended, the subdivision regulations of the City of Rolla, North Dakota, are hereby extended to the unincorporated territory located within one-half mile of the corporate limits of the City of Rolla in any direction.

Chapter 19.12 – Appeals

19.12.010 Appeals Types

Appeals may be made from any order, requirement, decision, or determination made by an administrative official charged with the enforcement of any provisions of this title or which may be made by the Planning and Zoning Commission for which other review or approval procedures are not otherwise specifically established in this zoning title. The appeals may be of the following types:

1. Administrative Review. To hear and decide on appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning title.
2. Interpretation of Title. To interpret the provisions of this title in such a way as to carry out the intent and purpose of the adopted comprehensive city plan, and as shown upon the zoning district map fixing the several districts accompanying and made a part of this title, where the street layout actually on the ground varies from the street layout as shown on the zoning district map.

19.12.030 Appeals Procedure

1. Appeals may be made by any person aggrieved, or by any officer of the city or any governmental agency or body affected by any decision of the building official administering the provisions of this zoning title.
2. Appeals shall be made within a reasonable time by filing a notice of appeal specifying the grounds thereof and payment of the required filing fee.
3. Appeals to this zoning title shall be prepared and submitted by the aggrieved party.
4. Upon receipt of the written notice of appeal and payment of the required fee, the planning commission shall advertise and hold a public hearing.
5. After a public hearing, the planning commission shall make a recommendation on the appeal to the city council within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
6. The planning commission shall send written findings of fact, based on evidence and testimony, to the city council specifying the reason for their recommendation, a copy of which shall be filed in the office of the city auditor, to be available for public inspection.
7. Upon receiving the recommendation of the planning commission the city council shall advertise and hold a public hearing. Upon the hearing, any party may appear in person or by agent or by attorney.
8. The city council shall decide the appeal within a reasonable time.
9. The city council may reverse or affirm, in whole or in part, or may modify, the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end, the city council shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the council shall be necessary to reverse any order, requirement, decision or determination of any such officer.
10. Where there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of this title, the city council, in passing upon an appeal, may vary or modify any of the regulations or provisions of this title relating to the use, construction, or alteration of buildings or structures or the uses of land so that the spirit of this title shall be observed, public safety and welfare secured, and substantial justice done.

11. An appeal to the city council stays all proceedings in furtherance of the action appealed from unless the officer, from whom the appeal is taken, certifies to the city council that by reason of the fact stated in the certificate a stay, in their opinion, would cause imminent peril to life or property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the city council or by a court of record on application and on due cause shown after notice to the officer from the appeal is taken.
12. Notice of the decision of the city council shall be in writing and transmitted to the appellant. A copy of such decision shall also be transmitted to the building official or planning commission for action, if action is required.
13. Any person, official or governing agency dissatisfied with any order or determination of the city council may appeal the decision by writ of certiorari to the district court of the county within fifteen days after notice of the decision of the city council under the provision of Section 40-47-11 of the North Dakota Century Code.