

TITLE 2 ADMINISTRATION AND
GOVERNMENTAL ORGANIZATION

JURISDICTION OF GOVERNING BODY

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CHAPTER 2-01. ADMINISTRATION AND GOVERNMENTAL ORGANIZATION

2-01-01. Jurisdiction - General. Except as otherwise provided by law or ordinance, the city has jurisdiction:

1. Over any common or public grounds belonging to the city and with the consent of the majority of the owners thereof shall have power to regulate the banks, shores and wharves of that portion of any navigable stream within the corporate limits, and

2. In and over all places within one-half mile (804.67 meters) of the corporate limits for the purpose of enforcing health and quarantine ordinances, and police regulations and ordinances adopted to promote the peace, order, safety and general welfare of the city.

Reference: NDCC Sec. 40-06-01

2-01-02. Jurisdiction - Police. The police officers of the city shall perform the duties and exercise the powers of peace officers as defined and prescribed by the laws of this state:

1. Within the city limits and for a distance of one and one-half miles (2.41 kilometers) in all directions outside the city limits.

2. A police officer in "hot pursuit" may continue beyond the one and one-half mile (2.41 kilometers) limit to make an arrest, in obedience to a warrant or without a warrant under the conditions of section 29-06-15 NDCC whenever obtaining the aid of peace officers having jurisdiction beyond that limit would cause a delay permitting escape. As used in this subsection, "hot pursuit" means the immediate pursuit of a person who is endeavoring to avoid arrest.

Reference: NDCC Sec. 40-20-05

2-01-03. Territorial Authority of Zoning Regulations. The zoning ordinances and subdivision regulations of the City of Bismarck shall apply to all unincorporated territory within four miles of the corporate limits as authorized by the North Dakota Century Code.

*Reference: NDCC Sec. 40-47-01.1
(Ord. 5278, 09-23-03)*

2-01-04. City Rights-of-Way. The City retains the full authority provided to cities by the North Dakota Century Code for the regulation and control of the public rights-of-way located within the City.

1. No person may dig up, remove, displace, break, or otherwise injure or destroy any public right-of-way,

including any public improvement located thereon, in the City without first securing written permission, an appropriate permit as required by this code, a franchise available under this code or an encroachment agreement from the City.

2. No person shall obstruct, encroach or place any object, thing or improvement on or over any public right-of-way in any manner without first securing written permission, an appropriate permit as required by this code, a franchise available under this code or an encroachment agreement from the City. A person violating this section shall be guilty of an offense.

*Source: NDCC Section 40-05-01(8)
(Ord. 6226, 08-23-16).*

CHAPTER 2-02. ELECTIONS

2-02-01. Qualification of Electors. Every resident of the city who is qualified to vote therein at general elections may vote at all city elections hold therein.

Reference: NDCC Sec. 40-21-01

2-02-02. Elections - When Held - Notice - Polls - Judges and Inspectors. Biennial municipal elections must be held in the city on the second Tuesday in June in each even-numbered year at such place or places as the board of city commissioners shall designate. Ten days' notice of the time and place of the election and of the offices to be filled at such election must be given by the city auditor or other designated official by publication in the official newspaper of the city. The board of city commissioners may enter into an agreement with the governing body of the county or counties in which the city lies on such terms and conditions as the board of city commissioners shall determine to be in the best interests of the city with respect to but not limited to the use of a single canvassing board, the sharing of election personnel, the printing of election materials, and the apportioning of election expenses. For special city elections the board of city commissioners shall appoint one inspector, and two judges of election for each precinct in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at state-wide elections. For a special city election in a precinct in which seventy-five or fewer votes were cast in the last city election, the board may appoint one inspector and one judge. Each precinct election judge in a special city election shall appoint a poll clerk who shall be a qualified elector of the precinct in which he or she is to serve.

*Reference: NDCC Sec. 40-21-02
(Ord. 4582, 03-01-94)*

2-02-03. Election Precincts. The election precincts for the city shall be established pursuant to Section 40-21-03.1, NDCC, and must be noted on the official city map, which must be on file in the office of the city auditor.
(Ord. 4583, 02-15-94)

2-02-04. Municipal Elections. The municipal elections must be held and conducted in accordance with state law which relates to elections in cities with a commission form of government.
(Source: NDCC Sec 40-21-13)

2-02-05. Officers to be Elected. The following officers shall be elected:

1. A president for the board of city commissioners;
2. Four city commissioners;
3. A municipal Judge.

2-02-06. Governing Body is Judge of Election and Qualifications of Its Own Members. The board of city commissioners is the Judge of the election and qualifications of its own members.
Ref: NDCC Sec. 40-09-02

CHAPTER 2-03. GOVERNING BODY

2-03-01. Governing Body - Who Constitutes. The governing body of this city is the board of city commissioners which is composed of the president of the board and four city commissioners.
Reference: NDCC Sec. 40-09-01

2-03-02. Term of Office. The term of office for the president of the board of city commissioners and each commissioner is as provided in Chapter 40-09 NDCC.
Reference: NDCC Sec. 40-09-04

2-03-03. Bond and Oath of Commissioner. Each commissioner, before entering upon the duties of the office, shall furnish a bond in the penal sum of three thousand dollars conforming to the provisions of law applicable to the bonds of state officers. In addition to the oath prescribed by the Constitution of the State of North Dakota, each commissioner shall take an oath that he or she is not under any direct or indirect obligation to appoint or elect any person to the office of policeman, fireman, or any other office, position, or employment under the city government. Each commissioner elected shall qualify under the provisions of this section within ten days after the receipt of the certificate of election.
Reference: NDCC Sec. 40-09-07

2-03-04. How vacancies in Board Filled. If a vacancy occurs in the office of a city commissioner or president of the board of city commissioners, the board may call a special city election to fill such vacancy for the unexpired term, or shall, after fifteen days from the date of such vacancy appoint a person to fill such vacancy until the next city election, at which election the unexpired term shall be filled. Upon petition of five percent of the electors, as determined by the total number of votes cast in the city in the last general election, the commission shall call a special city election to fill a vacancy occurring more than six months prior to the next city election, provided such petition has been submitted within fifteen days of the date of such vacancy.

Reference: NDCC Sec. 40-09-10

2-03-05. President of the Board - Duties - Power. The president of the board of city commissioners shall:

1. When present, preside at all meetings of the board of city commissioners;
2. Have the right to vote as a member of the board, but shall have no veto power; and
3. Be the executive officer of the city and shall see that all the laws of the city are enforced.

Reference: NDCC Sec. 40-09-08

2-03-06. Vice-President - Duties - Powers. At the first meeting of the board after each biennial election, one of its own members shall be elected vice president. The vice president shall perform all the duties of the office of the president in the absence or inability of the president to act. In the absence or inability to act of both the president and vice president, the board shall elect one of its members as acting president, who shall have all the powers and perform all the duties of the president during the president's absence or disability.

Reference: NDCC Sec. 40-09-09

2-03-07. Restrictions on Members of Board. A member of the board of city commissioners may not:

1. Be eligible to any other office the salary of which is payable out of the city treasury;
2. Hold any other office under the city government; and
3. Hold a position of remuneration in the employment of the city.

Reference: NDCC Sec. 40-09-17

2-03-08. Quorum. A majority of the member of the board

shall constitute a quorum to do business but a smaller number may adjourn from time to time.

Reference: NDCC Sec. 40-06-03

2-03-09. Rules of Procedure. The rules and order of business for the parliamentary government of the board are governed by Roberts Rules of Order.

Reference: NDCC Sec. 40-06-05

2-03-10. Meetings of the Board. Regular - Special Action on Departmental Matters. The board of city commissioners shall meet at the city hall on the 2nd and 4th Tuesday of each month at 5:15 p.m. unless otherwise specified by the board. The president or any two commissioners may call a special meeting at any time to consider matters mentioned in the written notice given to each member of the board. Final action may not be taken in any matter concerning the special department of an absent commissioner unless that matter has been made special order of the day or is taken up at a regular meeting. Action of the board is not effective unless upon a vote of a majority of a quorum of the board.

Reference: NDCC Sec. 40-09-11

(Ord. 4654, 11-22-94)

2-03-11. Meetings to be Public - Journal to be Kept. All meetings of the board shall be open to the public, and a journal must be kept of all its proceedings.

Reference: NDCC Sec. 40-06-02

2-03-12. Voting. Unless otherwise provided by law or ordinance:

1. The yeas and nays must be taken and recorded on the journal of the board's proceedings upon the passage of all ordinances, upon all propositions creating liability against the city, or providing for the expenditure or appropriation of money, and in all other cases at the request of any board member.

2. The concurrence of a majority of all board members is necessary for final passage of any ordinance and in the creation of any liability against the city and in expending or appropriating money, and in the sale of any real property.

3. Any member of the board who passes his vote or who remains silent when the roll call on a vote is taken, is deemed to have voted yea and the journal shall so indicate.

4. A vote of the board may not be reconsidered or rescinded at a special meeting unless the number of board members present is the same or greater as when the vote was

originally taken.

Reference: NDCC Sec. 40-11-02; NDCC Sec. 40-11-03; NDCC Sec. 40-11-04.1

CHAPTER 2-04. ORDINANCES AND CONTRACTS

2-04-01. How Ordinances Are Passed. All ordinances must be read twice, and the second reading may not be had less than ten days after publication. After the first reading and before its final passage, any ordinance may be amended. The Board shall file the proposed ordinance with the City Auditor, or other official designated by ordinance, who shall publish a summary of the proposed ordinance in the official newspaper of the city at least 10 days before the second reading. If the board substantially amends the proposed ordinance at the second reading (public hearing), it shall re-publish a summary of the proposed ordinance at least 10 days before reconsideration at a public hearing.

Source: Art. 4, Home Rule Charter for the City of Bismarck.

Reference: NDCC Sec. 40-11-02 (Ord. 4571, 01-04-94)

2-04-02. Publication of Ordinances. The title and penalty clause of every ordinance imposing any penalty, fine, imprisonment, or forfeiture for a violation of its provisions, after the final adoption of the ordinance, must be published in one issue of the official newspaper of the city.

Reference: NDCC Sec. 40-11-06

2-04-03. When Ordinance to Take Effect. All ordinances passed by the board of city commissioners, except when otherwise specifically provided, shall take effect and be in force from and after their publication where publication is required. Where publication is not required the ordinances is effective immediately.

Reference: NDCC Sec. 40-11-07

2-04-04. Effect of Amendments and Additions. Any and all additions and amendments to this code, when passed in such form as to indicate the intention of the board of the city commissioners to make the same apart hereof, are deemed to be incorporated in this code so that reference to the "Code of the City of Bismarck, North Dakota" is understood and intended to include such additions and amendments.

2-04-05. Revision of Ordinances. The executive officer of the city may appoint, by and with the consent of the board, one or more competent persons to prepare and submit to the board for its consideration an ordinance revising or amending existing ordinances or enacting new ordinances. The city attorney must be appointed as one of the persons to prepare and submit such ordinance. The compensation of the reviser or revisers, including that of the attorney, shall be determined by the governing body and shall be paid out of the municipal treasury. Such revision, including any additional ordinances and

amendments to existing ordinances contained therein, may be passed as a single ordinance and may be published in pamphlet or book form, by and under the authority of the board and shall be valid and effective without publication in a newspaper or posting.

Reference: NDCC Sec. 40-11-09

2-04-06. Repeal. All sections, articles, chapters or other provisions of this code desired to be repealed should be specifically repealed by section number, article number, chapter or other number, as the case may be.

2-04-07. New Material.

1. In the event a new section not heretofore existing in the Code is to be added, the following language may be used:

"That the Code of the City of Bismarck, North Dakota, is hereby amended by adding a section (or article, chapter or other designation as the case may be), to be numbered, _____, which reads as follows: (Set out new provisions in full)..."

2. In lieu of subsection 1 hereof, when the board of city commissioners desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, which the board desires to incorporate into the Code, a provision in substantially the following language may be made part of such ordinance:

"It is the intention of the board of city commissioners, and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of the City of Bismarck, North Dakota, and the sections of this ordinance may be renumbered to accomplish such intention."

2-04-08. Language. Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the following language:

"That section of the Code of the City of Bismarck, North Dakota, is hereby amended to read as follows: ...(Set out new provisions in full)..."

2-04-09. Initiative and Referendum. Ordinances may be initiated or referred pursuant to Article 5 of the Home Rule Charter for the City of Bismarck.
(Ord. 4824, 02-25-97)

2-04-10. Contracts - Form. Except as otherwise provided by

law or by the City Commission, all bonds, contracts and conveyances of the city must be signed by the president of the board of city commissioners and countersigned by the city administrator, who shall affix the seal of the municipality thereto. The city attorney shall approve all documents as to form.

*Reference: NDCC Sec. 40-01-06, Article 3, Home Rule Charter for the City of Bismarck.
(Ord. 4823, 02-25-97)*

CHAPTER 2-05. MUNICIPAL JUDGE

2-05-01. Term of Office. The municipal judge shall hold office for a term of four years from and after his election, and until a successor is elected and qualified.

2-05-02. Duties and Powers. The judge has the power to perform all duties prescribed by state law, specifically Chapter 40-18, NDCC, and the ordinances of the city. The judge has the authority to impose any fee, fine, court cost, impact fee or other charge authorized by state law, by a fee schedule approved by the City Commission or imposed by ordinances of the city. The judge may impose a fee of twenty-five dollars (\$25) as part of a sentence imposed on a defendant who pleads guilty to or is convicted of violating a city ordinance for which the maximum penalty that may be imposed under the ordinance for the violation includes imprisonment. All fees paid to the municipal court under this section shall be deposited in the general fund monthly for annual allocation by the board of city commissioners to victim and witness advocacy programs whose primary function is to provide direct services to victims and witnesses of crime or to the statewide automated victim information and notification system, as provided for under Chapter 12.1-34, NDCC.

2-05-03. Monthly Report. The judge shall submit to the board a monthly report of all proceedings or matters held before the court. The report shall include:

1. The names of the parties and the nature of the proceedings.
2. The disposition of the proceedings.
3. The total amount of costs and fines assessed and paid.
4. An itemized account of all fees and a list of all officers and witnesses.
5. A duplicate receipt from the city auditor for the total amount of fees and money collected by the judge on behalf of the city.

Until the report has been filed with the city auditor,
a salary may not be paid to the judge.

Reference: NDCC Sec. 40-13-11 (Ord. 6257, 06.13.17; Ord. 6313, 03.13.18)

2-05-04. Compensation. The municipal judge shall receive an annual salary set by the board as full compensation.

2-05-05. Vacancy in Office - Alternate Judge. If a vacancy exists in the office of municipal judge by death, resignation, or otherwise, it shall be filled by appointment by the executive officer, subject to confirmation by the board. An appointee shall qualify, and hold office until the next city election, and until a successor is elected and qualified. The governing body of a city may appoint an alternate municipal judge to serve when the municipal judge is unable to serve due to temporary absence, interest, disqualification or disability. The alternate shall be compensated on a per diem basis at the rate set by the board and shall possess, as nearly as is practicable, the qualifications of the regular municipal judge.

Reference: NDCC Sec. 40-18-03

2-05-06. Office Hours. The municipal court shall be open for business as provided by Rule 56, N.D.R.Crim.P.

Reference: NDCC Sec. 40-18-04

CHAPTER 2-06. CITY ADMINISTRATION

2-06-01. Officers of the City. The officers of the City of Bismarck shall consist of the board of city commissioners and such appointive officers, boards and commissions as the board of city commissioners deem necessary and as provided by law.

2-06-02. Powers of the Board. Whenever it is necessary for the more effective discharge of its duties, the board of city commissioners may summon and compel the attendance of witnesses and the production of books and papers before it. The board may punish for contempt of the board with the same fines and penalties as the county judge may inflict for contempt of the county court. All process necessary to enforce the powers conferred by this section shall be signed by the president of the board, attested by the city administrator, and served by any member of the police force of the city.

Reference: NDCC Sec. 40-09-16

(Ord. 5978, 07-09-13)

2-06-03. Office Deemed Vacant on Removal From Municipality or Failure to Qualify. When any officer removes from a municipality or refuses or neglects for ten days after official notification of his appointment to qualify and enter upon the discharge of the duties of the office, the office shall be deemed vacant.

Reference: NDCC Sec. 40-13-07

2-06-04. Departments of Administration of City Divided Among Commissioners - Duties. The board of city commissioners, by a majority vote of all the members thereof, shall designate from among its members:

1. A police and fire commissioner who shall have under his or her special charge the enforcement of all police regulations of the city and the general supervision of the fire department of the city.

2. A commissioner of streets and improvements who shall have under his or her special charge the supervision of the streets and alleys of the city and who shall be charged with responsibility for the lighting, cleaning, and sanitary condition of the streets and alleys and with the enforcement of all rules and regulations relating thereto, and with the preservation of the health of the inhabitants of the city, and the supervision of all public improvements, and shall see that all contracts for such improvements and conditions of all grants of franchises or privileges are complied with faithfully and performed.

3. A waterworks and sewerage commissioner who shall have under his or her special charge the waterworks and sewerage department of the city and who shall see to the enforcement of all regulations with respect to said departments and all revenue pertaining thereto.

4. A commissioner of finance and revenue who shall have under his or her special charge the enforcement of all laws for the assessment and collection of taxes of every kind and the collection of all revenues belonging to the city, from whatever source the same may be derived, and who shall examine into and keep informed as to the finances of the city.

The duties assigned by this section and any other duties with regard to other departments of the city may be otherwise distributed by a majority vote of the board.

*Reference: NDCC Sec. 40-09-12
(Ord. 5978, 07-09-13)*

2-06-05. Rules and Regulations Governing Departments and Agencies of City. The board of city commissioners has the sole authority to pass and adopt rules and regulations concerning the organization, management, and operation of all the departments of the city and the other agencies created by it for the administration of the city's affairs.

Reference: NDCC Sec. 40-09-14

CHAPTER 2-07. APPOINTIVE OFFICES

2-07-01. Appointive Offices. When vacant, subject to the

provisions of section 2-07-02, the board shall appoint persons to the following office, as provided by the provisions of this code:

1. A city health officer.
2. A city attorney.
3. A city administrator.
4. A fire chief.
5. A chief of police.
6. A city engineer.
7. Such other officers or boards as the board may deem necessary.

The board by a majority vote may dispense with any appointive office and provide that the duties shall be performed by other officers or boards. The board may fill a vacancy in any office with an "acting" officer.

*Reference: NDCC Sec. 40-15-05
(Ord. 5978, 07-09-13)*

2-07-02. Term of Appointive Officers. The term of office for appointive officers is as follows:

1. The city health officer shall hold office for two years from July 1 after the regular election of city commissioners and until his or her successor has been appointed and qualified. The city attorney shall hold office for four years from July 1 after the regular election of city commissioners and until his or her successor has been appointed and qualified.

2. Officers appointed under Section 2-07-02 shall hold office at the will of the city commission subject to the provisions of this code.

*Reference: NDCC Sec. 40-15-06 (Ord. 4199, 3-01-88)
(Ord. 5978, 07-09-13)*

2-07-03. Removal of Appointive Officers. Any person appointed to any office who is a member of the civil service may be removed as provided by civil service regulations. Part-time employees are not included in the civil service and may be terminated at will by the appointing authority, as provided by Title 9. Full time employees not under civil service may be removed by a majority vote of all the members of the board of city commissioners as provided by section 40-15-07, N.D.C.C.

*Reference: NDCC Sec. 40-15-07; NDCC Ch. 40-44.
(Ord. 5978, 07-09-13)*

2-07-04. Oaths of Appointive Officers. Every person appointed to an appointive office, before entering upon the discharge of the duties thereof, shall sign the oath of office prescribed for civil officers and shall file the same with the city administrator within ten days after notice of the election or appointment has been given.

Reference: NDCC Sec. 40-13-03.

(Ord. 5978, 07-09-13)

2-07-05. Bonds of Officials - Requirements - Approvals - Additional Bonds. The city administrator, city finance officer, municipal judge, city attorney, and such other officers as the governing body may direct, before entering upon the discharge of the duties of their respective offices, must be bonded pursuant to NDCC Chapter 26.1-21. The governing body at any time may require new and additional bonds of any officer. All premiums for required bonds shall be paid by the city.

Reference: NDCC Sec. 40-13-02.

(Ord. 5978, 07-09-13)

2-07-06. Duties Generally. All appointive officers of this city shall:

1. Perform all duties required of the 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 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 the department as the governing board may request.

5. Be responsible for the proper maintenance of all city property and equipment used in the department.

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 subordinates.

9. Establish regular office hours determined by the board or as set by ordinance.

10. Make a daily deposit with the city finance officer of any moneys received from the public.

11. Pay out moneys belonging to the city only in the manner prescribed by law and ordinance.

12. Turn over and deliver at the expiration of their term of service all books, accounts, records and property in their possession to their successor in office.

Reference: NDCC Sec. 40-13-11.

CHAPTER 2-08. DISASTER AGENCY

2-08-01. Establishment. The board of city commissioners shall, pursuant to Chapter 37-17.1, N.D.C.C., establish and maintain a disaster agency, or participate in a countywide or an interjurisdictional disaster agency. The disaster agency established and existing as of the effective date of this ordinance shall continue and have those powers and duties heretofore granted until changed or abolished by the board.

Reference: NDCC Sec. 37-17.1-08

2-08-02. Disaster Emergency Plan. A local or interjurisdictional disaster emergency plan shall be maintained and kept current for the city or interjurisdictional area.

Reference: NDCC Sec. 37-17.1-08

2-08-03. Disaster Emergency. The President of the Board of City Commissioners shall have the power to declare a local disaster emergency pursuant to N.D.C.C. Section 37-17.1-10. Under this section:

A. The President of the City Commission is authorized, if he/she finds that the City or any part thereof is suffering or is in imminent danger of suffering a disaster, civil disturbance, a utility emergency or other occurrence which will seriously and substantially endanger the health, safety, and welfare or property of the citizens, to declare a LOCAL DISASTER OR EMERGENCY. For the purposes of this section, the following definitions shall apply:

1. *Disaster*, whether natural or manmade, shall include, but not be limited to flood; fire; cyclone; tornado; earthquake; severe high or low temperatures; water, land or air contamination; blizzard; landslide; mudslide; excessive rainfall; building or structural collapse; high water table; water pollution; air pollution; epidemic; pandemic disease; riot; blight;

drought; severe energy shortages; snow; ice; windstorm; hazardous or toxic substance spills or releases; chemical spills or releases; petroleum spills or releases; biological material spills or releases; radiation releases or exposure; public health emergency; infestation; explosions; or other serious event that threatens the health, safety, welfare, or property of the citizens.

2. *Civil emergency* shall include, but not be limited to, any condition of unrest, riot, civil disobedience, terrorism, unlawful assembly, hostile military or paramilitary action, war, terrorism, or sabotage.

3. *Utility emergency* shall include, but not be limited to, conditions which endanger or threaten to endanger the safety, or supply of potable water or the transmission, distribution, treatment, or storage of water, sanitary sewer, natural gas, gasoline, fuels, or electricity.

B. Upon the occurrence of any of the above-listed events, the President of the City Commission may take the following specified measures throughout the City or any part thereof, by written declaration which shall be made in a proclamation and made known to the City Commissioners, department heads and the news media and delivered to the chief of police. The news media, where required, shall immediately notify the public of said proclamation and warn the public that any violation of the proclamation shall be deemed an offense and violators may be arrested. Pursuant to the local disaster or emergency declaration, the President of the City Commission or an official designated in this section, in order to address the disaster or emergency, may exercise any or all of the following special powers;

1. Require evacuation of all or any portion of the City.
2. Prohibit or limit the number of persons who may gather or congregate upon the public highways or public sidewalks, or in any outdoor place, or cancel any public or private event involving a gathering of a number of persons. Suspend, limit, cancel, convene, reschedule, postpone, continue, or relocate all meetings of the City Commission, and any City committee, commission, board, authority, or other City body as deemed appropriate.
3. Halt access or exit upon public highways to or from the City or any part thereof;

4. Suspend operations at the municipal airport;
5. Halt the movement of trains, or other vehicles into, within, or from the City;
6. Establish a curfew limiting the hours when persons may go upon or travel the public streets.
7. Require the closing of licensed liquor premises or prohibit or limit the sale or service of alcoholic beverages in the City. Suspend or limit the sale, distribution, dispensing, or transportation of firearms, explosives, and combustible products and require the closing of those businesses or parts of businesses insofar as the sale, distribution, dispensing, or transportation of these items are concerned.
8. Prohibit or limit the sale of gasoline or other flammable liquids;
9. Prohibit or limit the sale, carrying or possession on the public sidewalk or public streets, or any public park, of weapons including, but not limited to, unlawful firearms, bows and arrows, air rifles, slingshots, knives, razors, or missiles of any kind;
10. The chief of police shall have the authority to close any and all streets, alleys and other public ways in the City of Bismarck to the public whenever, in the opinion of the chief of police it is necessary in order to maintain the peace of the community.
11. Every person remaining present at the place of any riot or unlawful assembly after the same has been ordered to disperse by the police or any other lawful authority, except the public officers and persons assisting them in the dispersing of the same, shall be guilty of an offense.
12. Suspend the bidding requirements contained in City Ordinance Chapter 7-01 for the purchase of goods or services necessary to address the local disaster emergency.
13. During a declared disaster emergency, a department head may modify the work schedule of any employee.
14. Suspend the application or enforcement of any City ordinance, regulation or policy to aid in the response to the disaster or emergency.

15. Require the closing of business establishments. Prohibit the operation of any business or the sale or distribution within the City of any products which could be employed in a manner which would constitute a danger to public safety.
16. Require the continuation, termination, disconnection, limitation, or suspension of natural gas, electrical power, water, sewer, or other public utilities or services.
17. Control, restrict, allocate, or regulate the use, sale, production, or distribution of food, water, fuel, clothing, and/or other commodities, materials, goods, services, and resources.
18. Utilize all available resources of the City as reasonably necessary to manage the disaster or emergency.
19. With the concurrence of or in the absence of the health officer, order the isolation, quarantine, or segregation of persons or animals when reasonably necessary to prevent the introduction or transmission of infectious or contagious agents or toxins. Any such isolation or quarantine must be by the least restrictive means necessary to prevent the exposure, transmission, or spreading of a communicable, or potentially communicable, disease, agent, or toxin to others and may include, but is not limited to, confinement to private homes or other private or public premises.
20. Make application for local, state, or federal assistance. Accept services, gifts, grants, loans, equipment, supplies, and/or materials whether from private, nonprofit, or governmental sources.
21. Remove, demolish, abate, clean up, mitigate, decontaminate, or disinfect any structure, debris, wreckage, site, or location to mitigate the effects of any emergency or disaster.
22. Obtain any easements, agreements or permissions necessary to utilize private property to meet the disaster or emergency or, subject to any requirements established by law for compensation, utilize private property as necessary to cope with emergency or disaster conditions.
23. Delegate authority to such city officials as the

present determines reasonably necessary, convenient, or expedient.

- C. Duration. The LOCAL DISASTER OR EMERGENCY declared by the president of the City Commission shall exist for the period set forth in the proclamation but not in excess of fifteen days. However, the LOCAL DISASTER OR EMERGENCY declaration must be ratified by the City Commission within the 15-day period and, if so ratified, may be extended for additional periods of fifteen days.
- D. If the president is unavailable, the vice president of the City Commission shall have said authority and then followed by the most senior-ranked member of the City Commission.

Reference: NDCC Sec. 37-17.1-10.

(Ord. 4436, 5-12-92; Ord. 4570, 01-04-94; Ord. 4748, 02-27-96; Ord. 5854, 12-27-11; Ord. 6011, 10-22-13)

CHAPTER 2-09. BOARDS AND COMMISSIONS

2-09-01. 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 them until such boards, authorities and commissions and their powers shall be changed or abolished by the governing body.

CHAPTER 2-10. POLICE DEPARTMENT

2-10-01. Duties. The chief of police and all police officers employed by the city shall have those duties and authority as provided by state law and this Code.
(Ord. 4115, Sec. 1, 12-02-86)

2-10-02. Rules and Regulations. The chief of police shall be in charge of the department, subject to the orders of the board of city commissioners. The chief of police is authorized to promulgate such rules and regulations for the government of the department, not inconsistent with any law or this code, as may be necessary, subject to approval of the board of city commissioners.
(Ord. 4115, Sec. 1, 12-02-86; Ord. 5716, 5-12-09)

2-10-03. Alarm Systems.

1. The department responds to alarms received by the Central Dakota Communications Center.

2. Definitions.

a. The term alarm user is defined as any person, firm, partnership, association, corporation, or organization on whose premises an approved alarm system is maintained.

b. The term alarm system is defined as one intended for use in detection of unauthorized intrusion into a premises or commission of a crime and is specifically not intended to include fire alarms.

c. The term department is defined as the police department.

3. A fee is established for each response when an alarm signal is received due to any reason other than an actual unauthorized entry or intrusion into the premises or commission of a crime. The fee must be assessed to the alarm user for every response to the alarm system by the department, other than in those instances excepted. The alarm response fee, based upon a calendar year starting January 1 and ending December 31, is as follows:

a. For 1 through 3 responses per year, a fee of \$15 for each response.

b. For 4 through 6 responses per year, a fee of \$25 for each response.

c. For 7 through 12 responses per year, a fee of \$50 for each response.

d. For each response more than 12 per year, a fee of \$75 for each response.

(Ord. 4115, Sec. 1, 12-02-86; Ord. 4727, 09-26-95; Ord. 5030, 04-11-00; Ord. 6368, 03-12-19)

2-10-04. Permit Fees. The fee for any permit or license issued by the police department or for any service provided by the police department shall be as approved by the board of city commissioners unless otherwise set by ordinance.

(Ord. 5716, 5-12-09)

CHAPTER 2-11. BISMARCK HUMAN RELATIONS COMMITTEE

2-11-01. Purpose. The purpose of the Bismarck Human Relations Committee is to create an atmosphere of inclusion, equality and accessibility through education and outreach to recognize the value of a diverse community.

(Ord. 5208, 10-08-02; Ord. 6407, 02-01-20)

2-11-02. Bismarck Human Relations Committee. There is hereby created and established a body to be known as the Bismarck Human Relations Committee, whose purpose is to promote acceptance and respect for diversity through educational programs and activities and to discourage all forms of discrimination including protected class discrimination, ADA violations or other statutory or constitutional violations.

(Ord. 5208, 10-08-02)

2-11-03. Membership - Terms - Filling Vacancies. The Bismarck Human Relations Committee shall consist of nine members, who will serve without pay. Members shall be appointed by the President of the Board of City Commissioners, subject to confirmation by the Board of City Commissioners. The President of the Board of City Commissioners shall consider the recommendations of the Bismarck Human Relations Coalition for appointment to the Bismarck Human Relations Committee. Of the initial appointees, three shall serve for three years, three shall serve for two years and three shall serve for one year. Thereafter, all terms shall run for three years.

After the initial appointments, no Committee Member may serve more than an unexpired term plus two full terms on the Bismarck Human Relations Committee. Appointees to the Committee should promote diversity pursuant to Section 1 of this ordinance and represent the citizens of the City of Bismarck.
(Ord. 5208, 10-08-02; Ord. 5799, 01-25-11)

2-11-04. Committee President - Meetings - Records to be kept The Bismarck Human Relations Committee shall elect its President for a term of one year from among its members and shall hold regular meetings. The Bismarck Human Relations Committee shall keep a record of its resolutions, findings and determinations and all records shall be public records unless otherwise provided by North Dakota law. The Bismarck Human Relations Committee may appoint such subcommittees from among the appointed members as may be necessary for its work.
(Ord. 5208, 10-08-02)

2-11-05. Powers and Duties. The Bismarck Human Relations Committee shall:

1. Report to the Board of City Commissioners regarding the activities of the Bismarck Human Relations Committee.

2. Recommend to the Board of City Commissioners action and programs within the authority of the City in furtherance of the purpose of the Bismarck Human Relations Committee as described in this Chapter.

3. Consult and advise with public officials and agencies and with private individuals and organizations to provide education regarding civil and human rights.

4. The Bismarck Human Relations Committee may assist aggrieved individuals by offering information and referral, guidance and services as a forum for discussion.

(Ord. 5208 10-08-02)

2-11-06. Bismarck Human Relations Committee Advisory in Nature. The Bismarck Human Relations Committee shall be advisory in nature and shall submit all reports and recommendations to the Board of City Commissioners of the City of Bismarck. Final authority shall be in the Board of City Commissioners.
(Ord. 5208, 10-08-02)

CHAPTER 2-12. HISTORIC PRESERVATION COMMISSION

2-12-01. Definition of Terms. The following definitions represent the meanings of terms as they are used in this chapter:

Adverse Effect: Any action that may alter, directly or indirectly, any of the characteristics of any property eligible for or listed in the National Register of Historic Places that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling or association.

Alteration: Any change to an historic property or historic resource resulting from construction, renovation, improvement, repair, maintenance or other actions.

Appurtenance: A feature related to a parcel of land or to a property including, but not limited to a building, object, fence, sign, sidewalk, etc.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Construction: The addition or placement of any improvement onto any historic property or historic district including buildings, structures, infrastructure, objects, sites, or appurtenances or any portion thereof.

Criteria of Significance: The quality of significance in American history, architecture, archeology, engineering and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, material, workmanship, feeling, and association and:

- a. That are associated with events that have made a significant contribution to the broad patterns of national, state, regional, county, or local history or prehistory; or
- b. That have significant associations with the lives of persons important in our past; or
- c. That embody the distinctive characteristics of an architectural style, type, period, or method of construction, or use of indigenous materials or

craftsmanship, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

- d. That have yielded or maybe likely to yield information important in prehistory or history.

Demolition: The complete or partial removal of buildings, structures, infrastructure, objects, sites, or appurtenances.

Designation: The identification and registration of property for protection that meet criteria established or endorsed by the State Historic Preservation Office or the Historic Preservation Commission.

Historic District: A geographically definable area, urban or rural, which contains a concentration of significant sites, buildings, structures, or objects united historically or aesthetically in concentration, linkage, or continuity by plan or physical development and which meets the criteria of significance. Districts may be contiguous or non-contiguous and may contain properties that are individually eligible for the National Register of Historic Places and/or the North Dakota State Historic Sites Registry or that are designated as eligible by virtue of their ability to contribute to the significance of the concentration.

Historic Property: A building, structure, site, object, resource or district that meets the Criteria of Significance as promulgated by the Secretary of the Interior and endorsed, accepted or adopted by the North Dakota State Historic Preservation Office.

Impact Area: The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The impact area is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

Improvement: An appurtenance developed by human design including, but not limited to, buildings, structures, infrastructure, objects and manufactured units such as mobile homes, carports, and storage buildings.

National Register of Historic Places: A federal list of cultural resources worthy of preservation, authorized under the National Historic Preservation Act of 1966 (as amended) as part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect the nation's historic, architectural and archeological resources. The

National Register program is administered by the Historic Preservation Commission, by the State Historic Preservation Office and by the National Park Service under the Department of the Interior. Significant federal benefits may accrue to owners of properties listed on or determined eligible for listing in the National Register.

North Dakota State Historic Sites Registry: A legislatively approved (North Dakota Century Code: Chapter 55-10) list of significant historic properties located in North Dakota, comparable to the National Register of Historic Places.

Object: An object is distinguishable from buildings and structures by being a construction that is primarily artistic in nature or relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.

Professional Qualifications: The professional qualifications necessary to comply with this section shall be those defined by the Secretary of the Interior's Professional Qualification Standards.

Protection: The Historic Preservation Commission review process for proposed conservation, demolition, alteration, improvement, relocation or other action that may affect a historic property or a historic district.

Relocation: Any change in the location of a building, object, or structure in its present setting or to another setting.

Resource: Sites, buildings, structures and objects and all significant features within historic districts, together with the appurtenances thereon and improvements thereto, if any. The term resource includes, but is not limited to, separate districts, buildings, structures, sites, objects, landscape features, and related groups thereof.

Site: A location designated by the Historic Preservation Commission or other legal authority, that is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historic or archeological value regardless of the value of any existing buildings, structures, or objects.

State Historic Preservation Office (NDSHPO): The staff and facilities appointed and assigned by the State Historic Preservation Officer (SHPO) to administer and manage the North Dakota State Historic Preservation Program under the guidance of the SHPO.

State Historic Preservation Officer (SHPO): The person designated by the Governor to be the primary administrator and manager of the State Historic Preservation Program as sponsored by the National Park Service.

Structure: A constructed work of human origination created for purposes other than providing human shelter.
(Ord. 6358, 1-8-19)

2-12-02 Purpose and Declaration of Public Policy.

1. The purpose of this ordinance is to establish a program for promoting the cultural, educational, economic and general welfare of the community through the identification, designation, promotion, preservation, and protection of historic properties within the City of Bismarck. The program shall:

- a. Promote cultural stability and safeguard the heritage of the City;
- b. Stabilize and improve property values;
- c. Preserve the City's economic base through stimulation of tourism;
- d. Promote the knowledge and understanding of the City's heritage, its historic properties and the past endeavors of its residents;
- e. Provide a mechanism to review and comment on proposed construction, demolitions, alterations, and relocations within historic districts and with regard to historic properties both within and outside of historic districts; and
- f. Aim to foster civic pride in the accomplishments of the past; and promote the appropriate use of historic properties for education, pleasure and welfare of the people of Bismarck.

2. It is intended that the Historic Preservation Commission will cooperate with and assist various local, state and federal entities and agencies in the enforcement of local, state and federal legislation to identify, evaluate, designate, and safeguard properties significant in the pre-history, history, architecture, engineering and culture of the community, state and nation.

3. It is further declared that the purposes of this chapter are to:

- a. Retain and enhance historic properties within the City of Bismarck while allowing their adaption for current use by assuring that alterations are compatible with their historic character; and
- b. Provide guidance to encourage the application of zoning ordinances, building permits, land subdivisions, construction, alterations, relocations, and demolitions adjacent to historic properties or within historic districts in a manner that is compatible with historic preservation principles and practices.

(Ord. 6358, 1.8.19)

2-12-03. Creation of Historic Preservation Commission. There is hereby created and established a body to be known as the Historic Preservation Commission, which shall have powers and duties as hereinafter provided.

(Ord. 6358, 1.8.19)

2-12-04. Membership - Terms - Filling Vacancies - Qualifications. The Historic Preservation Commission shall consist of seven (7) members who shall be residents of the City of Bismarck who will serve without pay.

1. Appointment. Members shall be subject to confirmation by a majority of the Board of City Commissioners and approval of the North Dakota State Historic Preservation Office. One of the voting Historic Preservation Commission members shall be a City Commissioner who shall serve a respective term for which they have been elected.

2. Terms. Of the initial appointees, three shall serve for three years, two shall serve for two years and two shall serve for one year. Thereafter, all terms shall run for three years.

3. Qualifications. At least a majority of the membership shall be comprised of persons from the disciplines of architecture, history, architectural history, planning, archeology, or other historic preservation related disciplines, such as American studies, American civilization, cultural geography or cultural anthropology, to the extent that such professionals are available in the community.

- a. The requirement of this Subsection 3 may be waived, with the agreement of the North Dakota State Historic Preservation Office, if individuals having appropriate professional qualifications are not available for appointment, and reasonable efforts, as defined by this section, have been made to fill the positions.

(Ord. 6358, 1.8.19)

2-12-05. Historic Preservation Commission Chair - Meetings - Records to be Kept.

1. The Historic Preservation Commission shall elect its Chair and Vice Chair for a term of one (1) year from among its members and shall hold at least four (4) meetings per year.

2. A majority of the members of the Historic Preservation Commission attending a required meeting shall constitute a quorum.

3. The Historic Preservation Commission shall keep a record of its resolutions, findings and determinations, and all records shall be public records unless otherwise provided by North Dakota law. Minutes of all meetings shall be maintained and kept with the City and shall be provided to the State Historical Society of North Dakota within sixty (60) days following each Historic Preservation Commission meeting, or at such times as may be directed.

4. All meetings shall be open to the public; shall be held in a facility accessible to people with disabilities; and shall be upon such notice as required by law.

(Ord. 6358, 1.8.19)

2-12-06. Historic Preservation Commission Staffing. Staff from the City's Community Development Department shall advise the Historic Preservation Commission on matters related to the Historic Preservation Commission and historic preservation; prepare all documents for presentation to the Historic Preservation Commission; convey any recommendation of the Historic Preservation Commission to the Board of City Commissioners or the appropriate body; and otherwise assist the Historic Preservation Commission in the exercise of their duties, as required.

(Ord. 6358, 1.8.19)

02-12-07. Funding. The Board of City Commissioners may annually appropriate funds, within budget limitations, for the operation of the Historic Preservation Commission. The Historic Preservation Commission, in addition to the appropriations made

by the City of Bismarck, shall have the right to receive, hold and spend funds which it may legally receive from any and every source, both in and out of the state of North Dakota, for the purpose of carrying out the provisions of this article.

(Ord. 6358, 1.8.19)

2-12-08. Powers and Duties. Subject to the restrictions and limitations of this ordinance, the Historic Preservation Commission is hereby empowered to represent the City of Bismarck and to act in its interest. The following powers and duties are specifically conferred upon the Historic Preservation Commission:

1. To make rules governing its own operation consistent with this chapter.

2. To prepare, or have prepared on its behalf, and to amend a comprehensive inventory of historically significant properties within the City.

3. To make recommendations to the Board of City Commissioners for any additional ordinances or administrative procedures required to implement the stated purpose and intent of this chapter.

4. To develop and participate in educational programs to increase public awareness of the value of historic preservation and of the preservation program established by this chapter.

5. To make recommendations to the Board of City Commissioners:

a. Regarding application for and acceptance and utilization of grants from federal, state and local agencies or other entities, private groups, and individuals.

b. For budgetary appropriations to promote and advance the preservation of historic properties in the City and to otherwise implement the stated purpose and intent of this chapter.

c. To make recommendations to the Board of City Commissioners concerning the acquisition of fee simple and less than fee simple rights in properties within the City for purposes of historic preservation.

6. To prepare and submit, in accordance with all applicable federal laws and regulations, nominations to the National Register of Historic Places for properties deemed by the Historic Preservation Commission to be significant in local, state or national history.

7. To evaluate and comment upon plans, proposals, permits and applications which are developed or required by other public agencies – including those developed by other commissions, offices, and departments of the City – which may, in the opinion of the Historic Preservation Commission, either directly or indirectly affect any property or properties deemed by the Historic Preservation Commission to have historic value.

8. To review and comment upon all certifications of significance and certifications of rehabilitation as requested by the North Dakota State Historic Preservation Office.

9. To accept such gifts or grants as may be appropriate for fulfilling the purposes of this Historic Preservation Commission.

10. To identify and recommend, for historic preservation purposes, such organization or organizations to which fee titles or lesser interest in property should be granted.

11. To submit and file such information, findings and resolutions deemed necessary and appropriate by the Historic Preservation Commission with the State Historical Society of North Dakota.

12. To review and comment to all local, state or federal agencies or entities deemed necessary with regard to government funded, assisted or licensed projects with emphasis as to the presence of historically significant properties within the project's impact area, the extent of the project's effect on historically significant properties and proposed means of mitigating any adverse effect.

13. Perform any other functions which may be assigned or delegated to it by the Board of City Commissioners.

(Ord. 6358, 1.8.19)