

Chapter 2 ADMINISTRATION

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Article 2.ED Editor's note to Chapter 2

Sections:

2.ED.010 **Editor's note to Chapter 2**

Section 2.ED.010 **Editor's note to Chapter 2**

For state law as to commission cities, see NDCC, §§ 40-04-01 et seq., 40-09-01 et seq., 40-15-01. As to general provisions governing officers in municipalities, see NDCC, § 40-13-01. As to officers in commission cities generally, see NDCC, § 40-15-01 et seq.

As to ward boundaries and polling places, see § 1.080 of this Code. As to municipal judge, see §§ 11.08.010 to 11.08.090. As to fire department, see §§ 13.12.02.010 to 13.12.06.030. As to bureau of fire prevention, see §§ 13.12.06.010 to 13.12.06.030. As to department of health generally, see §§ 20.04.010, 20.04.020. As to public health officer, see §§ 20.04.030 to 20.04.070. As to traffic administration and enforcement, see §§ 23.08.070 to 23.36.140. As to park districts, see §§ 26.010 to 26.030. As to personnel, see Ch. 29. As to police, see Ch. 31. As to retirement, see Ch. 32. As to composition of street department, see § 33.04.020. As to powers and duties of superintendent of streets, see § 33.04.030. As to duties of city engineer, see § 33.04.040. As to administration and enforcement of subdivision regulations, see §§ 34.08.010 to 34.08.070. As to waterworks superintendent, see §§ 38.08.020, 38.08.030. As to duties of city engineer as to water, see § 38.08.040. As to powers and duties of city engineer and street commissioner as to sewers, see § 38.12.020. As to administration and enforcement of Zoning Ordinance, see §§ 39.04.120 to 39.16.060. As to zoning board of adjustment, see §§ 39.12.060 to 39.16.060.

Article 2.04 In General

Sections:

2.04.00E	Editor's note to Article 2.04
2.04.010	Ordinances--Method of passage
2.04.020	Same--Books
2.04.030	Same--Use as evidence in courts

Section 2.04.00E Editor's note to Article 2.04

As to repeal, see §§ 1-6, 1-7 of this Code.

Section 2.04.010 Ordinances--Method of passage

All ordinances shall be read twice, and the second reading shall not be had in less than one week after the first reading. After a first reading, before its final passage, an ordinance may be amended and shall then be put upon its second reading and final passage; and, if passed by the board of city commissioners, shall be signed by the president of the board and attested by the city auditor. (Code, 1958, § 2-1.)

For provisions of state law as to ordinances generally, see NDCC, § 40-11-01 et seq. As to initiative and referendum, see NDCC, § 40-12-01 et seq.

Section 2.04.020 Same--Books

The city auditor shall record in a book kept for that purpose, together with the affidavit of the publisher, all ordinances passed by the board of city commissioners. (Code 1958, § 2-2.)

For similar state law, see NDCC, § 40-11-08. As to affidavits of publisher, see NDCC, § 40-11-08.

Section 2.04.030 Same--Use as evidence in courts

The ordinance book or a certified copy of the ordinances as so recorded shall be received as evidence in all courts and places without further proof; or, if printed in book or pamphlet form by the authority of the board of city commissioners, they shall be so received. (Code 1958, § 2-4.)

Article 2.08 Board of City Commissioners

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2.08.00E	Editor's note to Article 2.08
2.08.010	Composition; election and terms of members
2.08.015	Portfolios Eliminated
2.08.020	Bond required of president and commissioners
2.08.030	Salary of president and commissioners
2.08.040	Powers and duties of president generally
2.08.050	Vice-president
2.08.060	Acting president
2.08.070	Regular meetings
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2.08.090	Same--Reconsideration or rescission of past vote
2.08.100	Rules of procedure generally
2.08.110	Voting--Taking of yeas and nays
2.08.120	Same--Passage of ordinances, etc.
2.08.130	Same--Sales of city property

Section 2.08.00E Editor's note to Article 2.08

For provisions of state law as to board of city commissioners, see NDCC, § 40-09-01 et seq.

Section 2.08.010 Composition; election and terms of members

The board of city commissioners shall consist of the president of the board of city commissioners and four commissioners. All members shall be elected at large and not by wards and shall hold office for four years from and after the date of election and until their successors shall have been duly elected and qualified. (Code 1958, § 2-6.)

For state law as to municipal elections, see NDCC, § 40-21-01 et seq. As to composition of board of commissioners, see NDCC, § 40-09-01. As to requirement that commissioners be elected at large, see NDCC, § 40-09-03. As to term of office, see NDCC, § 40-09-04.

Section 2.08.015 Portfolios Eliminated

The designation of portfolios for police and fire commissioners, commissioner of streets and improvements, waterworks and sewerage commissioner, and commissioner of finance and revenue are hereby eliminated, and such duties and functions shall hereafter be performed by the City Administrator, as set forth in Section 2.12.055 of this Code. (Ord. No. 1151 § 2.)

Section 2.08.020 Bond required of president and commissioners

The president of the board of city commissioners and each commissioner, before entering upon the duties of his office, shall furnish a bond in the penal sum of three thousand dollars, conforming to the provisions of sections 2-26 to 2-31 of this Code. (Code 1958, § 2-7.)

For state law requiring commissioners to furnish bond, see NDCC, § 40-09-07.

Section 2.08.030 Salary of president and commissioners

The monthly salary for the president and each commissioner on the board of city commission shall be in such amounts as are approved annually in the Annual Appropriation & Tax Levy Ordinance. (Code 1958, § 2-8; Ord. No. 326, § 1; Ord. No. 551; Ord. No. 561; Ord. No. 1134 § 1.)

Section 2.08.040 Powers and duties of president generally

The president of the board of city commissioners shall be the executive officer of the city and shall see that all the laws thereof are enforced. He shall have the right to vote as a member of the board on all questions which may arise, but shall have no right of veto. (Code 1958, § 2-9.)

For similar state law, see NDCC, § 40-09-08.

Section 2.08.050 Vice-president

At the first meeting of the board of city commissioners after each biennial election they shall elect one of their number as vice-president, and such vice-president shall, in case of the absence or inability of the president to act, perform all the duties of the office of president. (Code 1958, § 2-10.)

For state law as to the vice-president of the board of commissioners, see NDCC, § 40-09-09.

Section 2.08.060 Acting president

In case of the absence or inability to act of both the president and vice-president, the board of city commissioners shall elect one of their number who shall be known as acting president, who shall, during such absence or disability, have all the powers and perform all the duties of the president. (Code 1958, § 2-11.)

For state law as to acting president of board of commissioners, see NDCC, § 40-09-09.

Section 2.08.070 Regular meetings

The board of city commissioners shall meet regularly at City Hall every first and third Monday, in accordance with section 40-09-11 of the North Dakota Century Code, at the hour of 5:15 P.M., unless some other time or place shall be specifically fixed by the board of city commissioners. If the date of a regular meeting falls on a holiday, the meeting shall be held on the next business day. (Code 1958, § 2-12; Ord. No. 538, § 1; Ord. 1238 § 1.)

Section 2.08.080 Special meetings--Calling

Special meetings may be called at any time by the president or any two members of the board to consider matters mentioned in the call of such meeting. Written notice of any special meeting shall be given to each member of the board. (Code 1958, §§ 2-13, 2-14.)

For state law as to special meetings of board of commissioners, see NDCC, § 40-09-11.

Section 2.08.090 Same--Reconsideration or rescission of past vote

No vote of the board of city commissioners shall be reconsidered or rescinded at a special meeting, unless at such special meeting there is present as large a number of members as was present when such vote was taken. (Code 1958, § 2-15.)

Section 2.08.100 Rules of procedure generally

- (a) At the hour of meeting, the president shall call the board of city commissioners to order. He shall preserve order and decorum and decide all questions of order, subject to an appeal to the board.
- (b) As soon as the board shall be called to order, the auditor shall proceed to call the names of the members in alphabetical order marking who is present and who is absent, and record the marking in the proceedings of the board.
- (c) In case of the absence of the president and vice-president at the time of meeting, the auditor shall call the board to order. Thereupon, the board shall select one of their own members as president pro tempore.
- (d) At each regular meeting of the board the order of business shall be substantially as follows:

- (1) Reading and correcting the minutes of the last preceding meeting.
- (2) Receiving petitions, memorials, remonstrances and communications.
- (3) Report of committees and special boards may be made and considered, first from standing committees and next from select boards and committees.
- (4) Ordinances may be introduced, and ordinances introduced at a previous meeting may be put on final passage.
- (5) Accounts and claims may be presented and acted upon.
- (6) Miscellaneous business.
- (7) Adjournment.

- (e) All accounts presented to the board of commissioners for allowances shall be in detail, stating: If for labor performed, the locality, when such work was done, by whose order, number of days employed and the price to be paid per day; if for material furnished, by whose order, and the place where such material was used and delivered.
- (f) When a motion is made, it shall be stated by the presiding officer or read by the auditor previous to debate. All resolutions shall be reduced to writing, and any resolution may be withdrawn by consent of the board before discussion or amendment.
- (g) All questions, except passage of ordinances, shall be put in this form:
Those that are in favor of the motion (state the question), say "Aye," those opposed say "No."

- (h) When a question has once been decided it shall be in order for any member of the majority or, in case of a tie, for any member voting the affirmative to move a reconsideration thereof at the same or next regular meeting.
- (i) In all cases when a resolution or motion shall be entered on the minutes, the names of the members moving such resolution or motion shall be entered on the minutes.
- (j) The reports of committees shall be made in writing.
- (k) The city auditor shall see that all ordinances and resolutions are correctly engrossed and enrolled before they are published.

(1) The rules of parliamentary practice in "Robert's Rules of Order" shall govern the board in all cases in which they are applicable and in which they are not inconsistent with these rules. (Code 1958, § 2-16; Ord. No. 416, § 1.)

Section 2.08.110 Voting--Taking of yeas and nays

The yeas and nays shall be taken upon the passage of all ordinances and on all propositions to create any liability against the city or for the expenditure or appropriation of money; and, in all other cases, at the request of any member, which shall be entered on the minutes of its proceedings. (Code 1958, § 2-17.)

For similar state law, see NDCC, § 40-11-03.

Section 2.08.120 Same--Passage of ordinances, etc.

The concurrence of a majority of all the members elected shall be necessary to the passage of any ordinance or other matter which shall come before the board of city commissioners for decision, except as otherwise provided by law or ordinance. (Code 1958, § 2-18.)

For state law requiring majority vote of quorum, see NDCC, § 40-09-11.

Section 2.08.130 Same--Sales of city property

It shall require a three-fifths vote of all the members elected to the board of city commissioners to sell any city property. (Code 1958, § 2-19.)

Article 2.12 Appointive Officers

Sections:

2.12.00E	Editor's note to Article 2.12
2.12.010	Enumerated
2.12.020	Salary
2.12.030	Terms
2.12.040	Bonds
2.12.050	Duties--Generally
2.12.055	City Administrator
2.12.060	Same--Assessor
2.12.070	Same--Attorney
2.12.080	Same--Auditor
2.12.090	Same—Treasurer

Section 2.12.00E Editor's note to Article 2.12

For state law as to appointive officers in commission cities generally, see NDCC, §§ 40-15-05 to 40-15-07. For state law as to general provisions governing officers in municipalities, see NDCC, § 40-13-01 et seq.

Section 2.12.010 Enumerated

The board of city commissioners at their first meeting after their qualification, or as soon thereafter as possible, shall appoint the following officers: Treasurer; auditor; attorney; one or more assessors; a public health officer; a street commissioner; chief of the fire department; a board of public works; chief of police; one or more policemen, city engineer and such other officers or boards as the board of city commissioners may deem necessary; provided, that the board of city commissioners, by a majority vote, may dispense with the offices which in its judgment are unnecessary and provide that the duties thereof shall be performed by other officers or boards, by the board of city commissioners or by a committee thereof. (Code 1958, § 2-20.)

For similar state law, see NDCC, § 40-15-05.

Section 2.12.020 Salary

The salary of the appointive officers of the city shall be such sum as the board of city commissioners shall from time to time fix and determine. (Code 1958, § 2-21.)

For state law as to salaries of municipal officers, see NDCC, § 40-13-04.

Section 2.12.030 Terms

The appointive officers of the city shall take office on the first day of May following their appointment, and shall serve in such capacity for a term of two years or until their successors are appointed and qualified. (Code 1958, § 2-22.)

For state law as to terms of office of appointees, see NDCC, § 40-15-06.

Section 2.12.040 Bonds

The treasurer, auditor, assessor and such other appointive officers as the board of city commissioners may direct, before entering upon the duties of their respective offices, shall furnish bonds in a penal sum to be fixed by the board of city commissioners, conforming to the provisions of sections 2.16.010 to 2.16.060 of this Code; provided, that the bond of the treasurer shall be at all times in an amount set by resolution of the board of city commissioners at its regular meeting in April of each year, but the amount so set shall be equal at least to twenty-five per cent of the average amount of money that has been subject to the treasurer's control during the preceding fiscal year. Such average amount of money shall be determined by taking the total of the daily balances of the treasurer for the preceding year and dividing it by the figure three hundred or the sum of two hundred fifty thousand dollars, whichever is least. (Code 1958, § 2-23.)

For state law as to bonds of appointive municipal officers, see NDCC, § 40-13-02.

Section 2.12.050 Duties--Generally

The duties of the appointive officers of the city shall be the same as those certain duties set forth in the statutes of this state, this Code and other ordinances of the city. (Code 1958, § 2-24.)

Section 2.12.055 City Administrator

It shall be the duty of the City Administrator to administer policies established by the Board of City Commissioners for the operation of the municipality, to represent the City in the absence of specific members of the Board of City Commissioners, to chair various City committees, to prepare and administer the municipal budget, to exercise significant influence in the appointment of key administrative personnel, to oversee the operation of all departments, to perform the duties of the various portfolios as specified in NDCC §40-09-12 together with such other duties as are assigned from time to time by the Board of City Commissioners.

The City Administrator shall be responsible for all the duties of the city auditor, as set forth in the Dickinson City Code and applicable statutes of this state. The City Administrator shall have the authority to perform all duties and function of a city auditor, under all city ordinances and state law, and shall have the authority to designate the responsibility for any of said functions to other city employees with the finance department.

The City Administrator shall have the authority to perform all duties and functions under state law and city ordinances of the police and fire commissioner, commissioner of streets and improvements, waterworks and sewerage commissioner, and commissioner of finance and revenue as set forth in NDCC §40-09-12, subject to direction and control of the Board of City Commissioners. All policy making authority shall remain with the Board of City Commissioners. (Ord. No. 1127, § 1; Ord. No. 1151 §1.)

Section 2.12.060 Same--Assessor

The city assessor shall perform all duties necessary for the assessing of property within the city limits for the purpose of levying city, county, school and state taxes. (Code 1958, § 2-25.)

For state law as to duties of city assessor, see NDCC, § 40-19-01 et seq.

Section 2.12.070 Same--Attorney

The city attorney shall conduct all the law business of the city and of the departments thereof and all law business in which the city shall be interested. He shall, when requested, furnish written opinions upon the subjects submitted to him by the board of city commissioners or any other department. He shall keep a docket of all the cases to which the city may be party in any court of record, in which docket shall be briefly entered all steps taken in such cases. Such docket shall, at all reasonable hours, be open to public inspection. It shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances and such other instruments as may be required by the officers of the city; to examine and inspect tax and assessment rolls and all other proceedings in reference to the levying and collection of taxes; and to perform such other duties as may be prescribed by the board of city commissioners. (Code 1958, § 2-26.)

For specific provision of state law as to duties of city attorney, see NDCC, § 40-20-01.

Section 2.12.080 Same--Auditor

It shall be the duty of the city auditor to attend all meetings of the board of city commissioners and keep a full record of their proceedings; to record all ordinances and bonds in a book kept for that purpose; to keep a record of all licenses granted, which record shall at all reasonable times be open to inspection by the public; to carefully preserve all receipts filed with him and draw and sign all orders upon the treasury, except as otherwise provided by law, in pursuance of an order or resolution of the board of city commissioners and keep a full and correct account thereof in books provided for that purpose. He shall keep an accurate account with the treasurer and charge him with all tax lists presented to him for collection and all sums of money paid into the treasury. Within thirty days after the close of each fiscal year he shall make and cause to be published in the city official newspaper a financial statement showing the receipts and disbursements on account of each fund during the last preceding year. (Code 1958, § 2-27.)

For state law as to duties of city auditor, see NDCC, § 40-16-03 to 40-16-10.

Section 2.12.090 Same--Treasurer

The office of city treasurer is hereby abolished. The city auditor shall assume all functions and duties of the city treasurer where indicated in any other provisions of this Code. (Code 1958, § 2-28; Ord. No. 631, § 5.)

For state law as to duties of city treasurer, see DCC, § 40-17-01 et seq.

Article 2.16 Bonds

Sections:

2.16.00E	Editor's note to Article 2.16
2.16.010	Compliance with article required
2.16.020	Faithful discharge of duties
2.16.030	Approval of president of board of city commissioners; filing
2.16.040	Sureties
2.16.050	Payment of premiums
2.16.060	Additional bonds required by board

Section 2.16.00E Editor's note to Article 2.16

For state law as to bonds of municipal officials, see NDCC, § 40-13-02. As to bonds of city commissioners, see NDCC, § 40-09-07.

Section 2.16.010 Compliance with article required

Whenever a bond is required of any city official or employee by this Code or other ordinances of the city or by any provision of state law, such bond shall conform with the provisions of this article. (Code 1958, § 2-29.)

Section 2.16.020 Faithful discharge of duties

All bonds of city officials and employees required by law shall be conditioned for the faithful discharge of the duties of their respective offices. (Code 1958, § 2-30.)

Section 2.16.030 Approval of president of board of city commissioners; filing

All bonds of city officials and employees required by law must be approved by the president of the board of city commissioners; and, when so approved, shall be filed in the office of the city auditor. (Code 1958, § 2-31.)

Section 2.16.040 Sureties

No personal surety shall be accepted on any bond, but all such bonds must be with the state bonding fund or with a corporate surety company authorized to do business within this state. (Code 1958, § 2-32.)

For provisions of state law as to state bonding fund, see NDCC, § 26-23-01 et seq.

Section 2.16.050 Payment of premiums

Premiums for bonds of the state bonding fund shall be paid by the city in the manner provided by law, but no premium shall be paid by the city upon any other bonds than those upon which the state bonding fund shall be surety, unless it is to procure a bond to replace a bond canceled by the state bonding fund. (Code 1958, § 2-33.)

For similar state law, see NDCC, § 40-13-02.

Section 2.16.060 Additional bonds required by board

The board of city commissioners may by resolution at any time require new and additional bonds of any officer or employee, unless such additional bonds are prohibited or not otherwise allowed by any provision of law. (Code 1958, § 2-34.)

For similar state law, see NDCC, § 40-13-02.

Article 2.20 Planning Commission

Sections:

2.20.00E	Editor's note to Article 2.20
2.20.010	Members--Appointment
2.20.020	Same--Ex officio members
2.20.030	Same--Compensation; attendance at planning institutes, conferences, etc.
2.20.040	Same--Terms; vacancies
2.20.050	Officers and employees
2.20.060	Meetings; rules and records
2.20.070	Territorial jurisdiction
2.20.080	Master plan--Creation and adoption; amendment
2.20.090	Same--Purpose; preparation
2.20.100	Same--Contents
2.20.110	Same--Adoption of parts
2.20.120	Same--Public hearing prior to adoption or amendment
2.20.130	Same--Resolution of adoption; certification to city commissioners
2.20.140	Same--Approval of subdivision plats after filing
2.20.150	Compliance with state law

Section 2.20.00E Editor's note to Article 2.20

For state law as to planning commissioners, see NDCC, § 40-48-01 et seq. As to regulation of subdivisions of land, see §§ 34.08.020, 34.08.030 of this Code. As to zoning, see Ch. 39.

Section 2.20.010 Members--Appointment

The City Administrator shall appoint, with the approval of the board of city commissioners, six or seven persons to serve on the planning commission so that an odd number is always maintained. One of those positions shall be a sitting member of the board of city commissioners. One of those positions shall also include a member of the board of parks and recreation. In addition to the members appointed by the city, the planning commission shall include two persons appointed by the county board of commissioners the reside outside of the corporate limits of the city, including one from the extraterritorial zoning area of the city pursuant to North Dakota Century Code, Chapter 40-48-03.(Code 1958, § 2-35; Ord. No. 529; Ord. No. 566.)

For state law as to appointment of members and number to be appointed, see NDCC, § 40-48-03.

Section 2.20.020 Same--Ex officio members

The president of the board of city commissioners, the city engineer and the city attorney shall be ex officio members of the planning commission, in addition to the five appointed members. (Code 1958, § 2-36.)

For state law as to ex officio members, see NDCC, § 40-48-03.

Section 2.20.030 Same--Compensation; attendance at planning institutes, conferences, etc.

All members of the planning commission shall serve without compensation. When duly authorized by the planning commission, members may attend conferences and meetings of planning institutes or hearings upon pending planning legislation; and, in such instances, the commission may pay reasonable traveling expenses pursuant to a resolution spread upon its minutes. (Code 1958, § 2-37.)

For state law as to compensation and traveling expenses, see NDCC, § 40-48-05.

Section 2.20.040 Same--Terms; vacancies

When the members of the planning commission shall be first appointed, one member shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years. When the respective term of office for a member shall have expired, the vacancy shall be filled by an appointment for a term of five years. If a vacancy occurs otherwise than by expiration of a term, it shall be filled by appointment for the unexpired portion of the term. Tenure for ex officio members of the commission shall correspond to their respective official tenures. (Code 1958, § 2-38.)

For state law as to terms of office and filling of vacancies, see NDCC, § 40-48-04.

Section 2.20.050 Officers and employees

The planning commission shall elect its president from among the appointed members and he shall serve for a term of one year. 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. (Code 1958, § 2-39.)

For state law as to officers and employees of planning commission, see NDCC, § 40-48-06.

Section 2.20.060 Meetings; rules and records

The planning commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations. The record kept shall be a public record. (Code 1958, § 2-40.)

For state law as to meetings of the planning commission and adoption of rules and records, see NDCC, § 40-48-06.

Section 2.20.070 Territorial jurisdiction

The territorial jurisdiction of the planning commission shall include all land located in the city and all land lying within six miles of the corporate limits of the city. (Code 1958, § 2-41.)

For state law on jurisdiction of planning commission, see NDCC, § 40-48-18.

Section 2.20.080 Master plan--Creation and adoption; amendment

The planning commission shall make and adopt a master plan for the physical development of the city and of any land outside its boundaries which, in the commission's judgment, bears a relation to the planning of the city. The planning commission may amend, extend or add to the master plan. (Code 1958, § 2-42.)

For state law as to adoption and amendment of master plan, see NDCC, § 40-48-08.

Section 2.20.090 Same--Purpose; preparation

The master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city. In the preparation of the master plan, the planning commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the city with due regard to its relation to neighboring territory. (Code 1958, § 2-43.)

For state law as to purpose of master plan, see NDCC, § 40-48-09.

Section 2.20.100 Same--Contents

The master plan with the accompanying maps, plats, charts and descriptive matter shall show the planning commission's recommendations for the development of the territory, including:

- (a) The general location, character and extent of streets, waterways, waterfronts, playgrounds, plazas, squares and open spaces, parks, aviation fields and other public ways and grounds;
- (b) The general location of public buildings and other public property;
- (c) The general location and extent of public utilities and terminals, whether publicly or privately owned or operated;
- (d) The removal, relocation, widening, narrowing, vacation, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, terminals or utilities;
- (e) Other matters authorized by law. (Code 1958, § 2-44.)

For state law as to contents of master plan, see NDCC, § 40-48-08.

Section 2.20.110 Same--Adoption of parts

The planning commission may adopt and publish a part of the master plan covering one or more major sections or divisions of the territory under its jurisdiction or one or more of the subjects set out in section 2.20.100 of this Code, when it deems such advisable. (Code 1958, § 2-45.)

For state law as to adoption of part of master plan for certain areas, see NDCC, § 40-48-08.

Section 2.20.120 Same--Public hearing prior to adoption or amendment

Before adopting a master plan or part of it or any substantial amendment thereof, the planning commission shall hold at least one public hearing thereon. Notice of the time of such hearing shall be given by one publication in the official city newspaper. (Code 1958, § 2-46.)

For state law requiring hearing prior to adoption of master plan by planning commission, see NDCC, § 40-48-10.

Section 2.20.130 Same--Resolution of adoption; certification to city commissioners

The adoption of the master plan or of any part thereof or amendment thereto, shall be by a resolution of the planning commission carried by the affirmative votes of not less than four members. The resolution shall refer expressly to the maps and descriptive matter intended by the commission to form the whole or part of the plan or amendment. The action taken by the commission shall be recorded on the map, plan and descriptive matter by the identifying signature of the secretary of the commission. An attested copy of the master plan shall be certified to the board of city commissioners. (Code 1958, § 2-47.)

For state law as to resolution of adoption and certification to the city commissioners, see NDCC, § 40-48-10.

Section 2.20.140 Same--Approval of subdivision plats after filing

When the planning commission has adopted a major street plan and shall have filed a certified copy of such plan in the office of the register of deeds of the county, no plat of a subdivision of land within the territorial jurisdiction of the commission or part thereof shall be filed or recorded until it shall have been approved by the commission and such approval shall have been entered in writing on the plat by the president or secretary of the commission. (Code 1958, § 2-48.)

For similar state law, see NDCC, § 40-48-19.

Section 2.20.150 Compliance with state law

The planning commission, in addition to the provisions of this article, shall be further authorized or restricted in its authority as is provided by the laws of this state. (Code 1958, § 2-49.)

Article 2.24 Comprehensive Plan

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2.24.00E	Editor's note to Article 2.24
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2.24.020	Purpose
2.24.030	Acceptance, opening, improving, etc. streets
2.24.040	Erection of buildings
2.24.050	Recordation
2.24.060	Approval of plats generally
2.24.070	Amendment

Section 2.24.00E Editor's note to Article 2.24

For state law as to municipal master plans generally, see NDCC, § 40-48-01 et. seq.

Section 2.24.010 Adoption

There is hereby adopted a basic housing study (goals and guideline plan), central business district plan, community facilities plan, land use plan, thoroughfare plan, guide for the preparation of a capital improvements program, basic research report, city base map and overlays, central business district base map and overlays, and concept illustratives; all shall be parts of the comprehensive plan (master plan) of the city. All of such parts of the comprehensive plan, master plan, together with maps, all notations, information and data contained thereon are hereby made a part of this article. (Ord. No. 560.)

For state law as to adoption of master plan, see NDCC, § 40-48-08.

Section 2.24.020 Purpose

All parts of and the entire comprehensive plan, master plan, are adopted to protect and promote public health, safety, comfort, convenience and general welfare and for the accomplishment thereof are adopted for the purposes more particularly set forth as follows:

- (a) To assist in providing definite plans of development for the city and adjacent territory and to guide, control and regulate the future growth of such area in accordance with such plans.
- (b) To provide a guide for the intelligent outlay of the capital expenditures of the city for street and thoroughfare improvements.
- (c) To provide an authentic source of information as to the development of the city for prospective residents and investors therein.
- (d) To provide a pattern for such future subdivision as may take place in the city and adjacent territory.
- (e) To obviate the menace to the public safety resulting from inadequate provision of traffic thoroughfares in connection with and as a result of the development of the city.
- (f) To prevent deterioration of property values and impairment of conditions making for desirable agricultural, residential, commercial or industrial development as the case may be which would result from a lack of plans designed to assure the orderly, harmonious and beneficial development of the city and territory adjacent thereto.

- (g) To provide for the general locations, character and extent of streets, waterways, waterfronts, playgrounds, plazas, squares and open spaces, parks, aviation fields and other public ways and grounds.
- (h) To provide for the general location of public buildings and other public property.
- (i) To provide for the general location and extent of public utilities and terminals whether publicly or privately owned or operated.
- (j) To provide for the removal, relocation, widening, narrowing, vacation, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, terminals or utilities. (Ord. No. 560.)

For state law as to purpose of the master plan, see NDCC, § 40-48-02.

Section 2.24.030 Acceptance, opening, improving, etc. streets

After March 23, 1971, the city shall not accept, lay out, open, improve, grade, pave or curb any street or lay or authorize to be laid sewers or connections thereto or water mains or connections thereto in any street or right-of-way within the territory of the subdivision jurisdiction of the city, unless such street:

- (a) Shall have been accepted or open as or shall otherwise have received the legal status of a public street prior to the adoption of the thoroughfare plan or any amendment thereto made a part of this article; or
- (b) Corresponds with a street shown on the thoroughfare plan or any amendments thereto which is a part of this article. (Ord. No. 560.)

Section 2.24.040 Erection of buildings

After March 23, 1971, no building shall be erected on any lot within the territory of subdivision jurisdiction of the city nor shall a building permit be issued for such building unless the street giving access to the lot upon which such building is proposed to be placed:

- (a) Shall have been accepted prior to that time; or unless such street
- (b) Corresponds with a street shown on the thoroughfare plan or any amendments thereto which has been made a part of this article. Any building erected in violation of this section shall be deemed an unlawful structure and the general inspector or other appropriate official may cause it to be vacated and have it removed. (Ord. No. 560.)

Section 2.24.050 Recordation

The auditor of the city is hereby instructed to cause to be recorded in the office of the register of deeds of the county a certificate showing that the city has established this comprehensive plan (master plan) and is further instructed to file a certified copy of the major street and thoroughfare plan in the office of the register of deeds of the county. (Ord. No. 560.)

Section 2.24.060 Approval of plats generally

No plat pertaining to any of the property herein described shall be filed with the register of deeds of the county, unless such plat will have first been approved in writing by the city commission pursuant to the statutes in such cases made and provided. (Ord. No. 560.)

Section 2.24.070 Amendment

This article may be amended from time to time in accordance with the laws of the state providing for the adoption and amendment of the comprehensive plan, master plan, of a city. (Ord. No. 560.)

Article 2.28 City Property

Sections:

2.28.00E	Editor's note to Article 2.28
2.28.010	Statement of Policy
2.28.020	Definitions
2.28.030	Competitive Bidding Required
2.28.040	Exceptions to Competitive Bidding
2.28.050	Sale or Disposal of City Property
2.28.060	Acquisition of Public Improvements
2.28.070	Gifts or Donations to City Projects Without Bidding Allowed

Section 2.28.00E Editor's note to Article 2.28

For state law requiring city to pass ordinance providing for sale, etc., of property, see NDCC, § 40-11-04. As to authority of city to transfer property, etc. , see NDCC, § 40-05-01 (56).

Section 2.28.010 Statement of Policy

It is the intent of this Article to provide for a uniform method for procuring supplies, materials, equipment, and contractual services necessary to carry on activities of the City and to sell or otherwise transfer needed supplies, equipment and other property.

It is the policy of the City to procure supplies, materials, equipment and contractual services in an efficient manner and to assure that the highest quality is obtained at the best price available. When practicable and in the best interests of the City, competitive bids shall be solicited in order to reduce prices.

It is the policy of the City to comply with all laws, rules, regulations and orders with respect to local preference, non-discrimination, wages and hours and all other applicable laws, rules, regulations and orders.

All suppliers, contractors and service providers doing business with the City shall certify that they are in compliance with all federal, state and local laws, regulations and orders including but not limited to those regarding non-discrimination, wages and hours, workers compensation and immigration. Failure of compliance may result in the cancellation of any City contract and exclusion from consideration for future contracts.

Any purchase of a good or service, or contractual relationship which might directly or indirectly benefit a municipal officer must be obtained through a formal public bid process regardless the estimated or actual purchase price.

Regardless the value, all contractual agreements obligating the City must be approved by the Board of City Commissioners.

Section 2.28.020 Definitions

For the purposes of this Article, unless the context or subject matter otherwise requires:

1. "Contractual services" means services provided by entities other than the City of Dickinson, other governmental bodies, or public utilities.

2. "Emergency" means a situation in which, due to unforeseen circumstances, immediate action or action which cannot or should not be delayed, pending solicitation of bids and purchase of needed supplies or services by competitive bids, is called for.
3. "Non-competitive type or kind" means supplies or services which are by their nature unique and not subject to competition, including professional services, consultant services, management services, contracts with the manufacturer or seller or service agent for repair of equipment, services or supplies of a specialized nature that are available from only one supplier or a limited number of suppliers who are not in competition with each other, other supplies or services for which the local market is not competitive, or supplies or services for which, in order to obtain the best quality at the lowest price, purchase in the open market is called for.

Section 2.28.030 Competitive Bidding Required

1. All purchases of supplies, materials, equipment and contractual services and all contracts for supplies, materials, equipment and contractual services shall be made by competitive bid, except as otherwise provided in Section 2.28.040. Bids shall be advertised in the official newspaper of the City once each week for two consecutive weeks with the bid opening at least 10 days after the last advertisement.
2. The City shall accept only sealed bids. If all of the bids are not rejected, the purchase shall be made from the lowest responsible bidder meeting or exceeding specifications. Pursuant to NDCC 44-08-01, the City shall give preference to bidders, sellers, or contractors resident in North Dakota. The City reserves the right to reject any and all bids, and to waive irregularities.
3. The requirement for competitive bidding shall be deemed satisfied where the supplies, materials, equipment, or contractual services have previously competitively bid by the State of North Dakota or one of its agencies, for which the State or agency has made provision for participation by political subdivisions, and the supplies, materials, equipment and contractual services may be purchased through the State's or agency's bid.

Section 2.28.040 Exceptions to Competitive Bidding

Notwithstanding Section 2.28.030, competitive bidding shall not be required for the following purchases:

1. Purchases of supplies, materials, equipment and contractual services having a total cost of less than One Hundred Thousand Dollars and No Cents (\$100,000.00) may be made in the open market, without competitive bidding; provided:
 - (a) The purchasing department head or designee solicits prices or quotes for the supplies, materials, equipment and contractual services from a minimum of three vendors; or if fewer than three vendors are available, then from all available vendors.
 - (b) A report is filed with the City Administrator by the purchasing department head stating:
 - (1) the particular supplies, materials, equipment or contractual services that are sought to be purchased without competitive bidding;
 - (2) the purchasing department head's opinion as to why the purchase should not be made using competitive bidding;
 - (3) the vendors from who the purchasing department head solicited prices or quotes for the supplies, materials, equipment and contractual services;

- (4) the prices or quotes supplied by such vendors;
 - (5) the department head's recommendation that the purchase be made from the vendor submitting the lowest price or quote that meets or exceeds the specifications of the purchase and the needs of the City;
 - (6) the department head's opinion that the purchase price for the supplies, materials, equipment or contractual services is a reasonable and fair price in the local market.
- (c) The purchase without competitive bidding is approved by the City Administrator or his designee
 - (d) The purchase without competitive bidding is reported to the Board of City Commissioners.
2. Purchases of supplies, materials, equipment and contractual services of a non-competitive type or kind may be made in the open market without competitive bidding.
 3. Purchases of supplies, materials, equipment and contractual services from other governmental bodies or agencies may be made in the open market without competitive bidding.
 4. When, in the opinion of the Board of City Commissioners or the City Administrator, an emergency requires the purchase of supplies, materials, equipment and contractual services, such purchases may be made in the open market without competitive bidding.
 5. When, due to the nature of the purchase sought, it is difficult, if not impossible, to strictly define or delineate bid specifications, the City may identify interested vendors and issue a Request for Proposals ("RFP") or Request for Qualifications ("RFQ") in order for such vendors to demonstrate their goods and services. Following such demonstration and review of the merits and costs of the goods and services, the City may purchase such goods or services in the open market without competitive bidding, upon a recommendation made to the Board of City Commissioners, who may then approve or disapprove the purchase.

Section 2.28.050 Sale or Disposal of City Property

1. Sale or Disposal of City Property Less than \$2,500; Obsolete Property.
Upon the approval of the Board of City Commissioners, the City may sell or dispose of real property or personal property with an estimated value of less than \$2,500 by any means deemed prudent by the City Administrator or his designee, including by private sale. Prior to the sale of such property, a list of all items to be sold will be presented and approved by the City Commission through a surplus property declaration.
2. Sale or Disposal of City Property Greater than \$2,500.
Upon the approval of the Board of City Commissioners, the City may provide for the sale or disposal of real property or personal property with an estimated value of more than \$2,500 by any one or more of the following methods:
 - (a) Sale or Disposal by Public Auction.
Real property or personal property owned by the City may be sold or disposed of by public advertisement and auction. For such public auction of 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 official county 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. Such notice shall specify whether the bids are to be received at auction, or as sealed bids, or as a combination thereof. The

property advertised shall be sold to the highest bidder if the bid is deemed sufficient by the City Administrator.

In the event the City has a considerable number of parcels of real property and/or items of personal property, the notice shall refer generally to the location of the properties, acknowledging a complete list and description which is on file at city offices for inspection.

Regarding the sale of real property acquired through delinquent taxes, upon a resolution passed by the Board of City Commissioners, the City may release and cancel delinquent special assessments levied on the properties for the county auditor to give tax deeds to the City.

The City Administrator shall have the authority to set any minimum bid amounts to be accepted at public auction, and shall further have the right to reject any and all bids deemed insufficient or otherwise defective.

(b) Sale by Listing Agreements.

Real property or personal property may be sold or disposed of through listing agreements, whether exclusive or non-exclusive. The Board of City Commissioners may by resolution describe the real property or personal property that is to be sold or disposed of and provide a maximum rate of fee, compensation or commission for the sale. The City is authorized to engage sales professionals, including any licensed real estate brokers or others, to attempt to sell the described property. The City reserves the right to reject any and all offers determined to be insufficient.

(c) Sale or Disposal in the Best Interests of the City.

The Board of City Commissioners may, upon a finding that it is in the best interests of the City, enter into such purchase, sale, exchange or other agreements for the purchase, acquisition, sale, lease or conveyance of any personal property or real property, or combination thereof, as the Board of City Commissioners deems appropriate, waiving any purchase or sale requirements under state law or local ordinances.

3. When specific statutory provisions contained in the North Dakota Century Code provide for a procedure governing the conveyance, sale, lease or disposal of real property, those procedures shall apply unless modified by this section. Said statutory procedures include, but are not limited to:

(a) Lease of airports or landing fields, or portions thereof under authority granted in Chapter 2-02, NDCC. Leases must be in compliance with regulations and directives of appropriate federal agencies.

(b) Conveyance of right-of-way for any state highway as provided in section 24-01-46, NDCC.

(c) Leasing of oil and gas lands as provided in Chapter 38-09, NDCC,

(d) Conveyance of property to a municipal parking authority as provided in section 40-61-05, NDCC.

(e) Lease of public buildings or portions thereof as provided in Chapter 48-08, NDCC, except that the City shall have the authority to enter into such leases for a period or term as set by the City Commission.

(f) Granting of concessions for cafes, restaurants, and confectionaries on public buildings and grounds as provided in Chapter 48-09, NDCC, except that the concession may be for a term as set by the City Commission.

- (g) Granting of rights-of-way for a railway, telephone line, electric light system, or a gas or oil pipeline system as provided in section 49-09-16, NDCC.
- (h) Transfer of property pursuant to a joint powers agreement in accordance with chapter 54-40, NDCC.

Section 2.28.060 Acquisition of Public Improvements

Except as otherwise provided by North Dakota law, if construction of a public improvement, as that term is defined in NDCC §48-01.2, is estimated to cost in excess of one hundred thousand dollars, the City shall abide by all requirements and obligations of NDCC §48-01.2 as may apply, to include public advertisement for bids and competitive award of bids.

Construction of public improvements estimated to cost less than one hundred thousand dollars may be acquired in the open market without competitive bidding, unless otherwise provided by North Dakota law.

Section 2.28.070 Gifts or Donations to City Projects Without Bidding Allowed

The City may accept gifts or donations of land, services, materials, money or other items or property to be used or incorporated within a public building, without including the items or property to be donated in the public bidding process, regardless of the size of the project or of the value of the donated items or property. (Ord. No. 1567 § 1.)

Article 2.30 Appointive Boards

Sections:

2.30.100 **Library Board - Terms**

2.30.200 **Airport Authority – Terms**

Section 2.30.100 Library Board – Terms

Pursuant to NDCC §40-38-03, the City of Dickinson has appointed the Board of Directors of the Library. In said statute, the terms are for a period of three years, and commence on the first day of July following the appointment. Commencing on January 1, 2000, the terms for all subsequent appointees shall expire on December 31 of the third year following the appointment. (Ord. No. 1200, § 6.)

Section 2.30.200 Airport Authority - Terms

Pursuant to NDCC §2-06-02, the City of Dickinson has appointed five commissioners to the Dickinson Municipal Airport Authority, each for a term of five years. Commencing on January 1, 2000, the terms for all subsequent appointees shall be for three years, and shall expire on December 31 of the third year following the appointment. (Ord. No. 1200, § 7.)

Article 2.35 Human Relations Commission

Sections:

- 2.35.010** **Creation of Human Relations Commission**
- 2.35.020** **Number of members - Term of members - Appointment of members - Filling vacancies.**
- 2.35.030** **President of commission - Meetings - Record to be kept**
- 2.35.040** **Goals of the Human Relations Commission**
- 2.35.050** **Powers and duties of commission**
- 2.35.060** **Commission advisory in nature**

Section 2.35.010 **Creation of Human Relations Commission**

There is hereby created and established a body to be known as the Human Relations Commission, whose purpose is to promote the acceptance and respect for diversity through educational programs and activities and to discourage all forms of discrimination on the basis of race, color, religion, sex, sexual orientation, national origin, age, the presence of any mental or physical disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premise during non-working hours which is not in direct conflict with the essential business-related interests of the employer. (Ord. No. 1248 § 1)

Section 2.35.020 **Number of members - Term of members - Appointment of members - Filling vacancies.**

The Human Relations Commission shall consist of not less than five nor more than nine members, who shall be appointed by the President of the Board of City Commissioners, subject to confirmation by the Board of City Commissioners. The terms of office of the initial commissioners shall be for staggered terms, with member(s) who shall serve until December 1, 2003; member(s) who shall serve until December 1, 2004; and member(s) who shall serve until December 1, 2005. At the expiration of the terms of the members as aforesaid, members shall be appointed for three-year terms. If a vacancy occurs otherwise than by expiration of a term, it shall be filled by appointment for the unexpired portion of the term. Notwithstanding the expiration of a member's term, such member may serve until his or her successor has been appointed and qualified. (Ord. No. 1248 § 1)

Section 2.35.030 **President of commission - Meetings - Record to be kept**

The Human Relations Commission shall elect its president for a term of one year from among the appointed members and shall hold regular monthly meetings. The commission shall keep a record of its resolutions, findings and the determinations and such record shall be a public record. The commission may appoint such subcommittees from among the appointed members as it may be necessary for its work. (Ord. No. 1248 § 1)

Section 2.35.040 **Goals of the Human Relations Commission**

The goals of the Human Relations Commission are:

To provide leadership in the areas of civil rights.

To encourage and educate the public in the promotion of civil rights.

To identify issues of principal concern to members of the community in the area of civil rights and to recommend priorities and objectives to the Board of City Commissioners.

To encourage adherence to federal and state laws regarding civil rights, including Chapter 14-02.4 of the North Dakota Century Code, through education, conciliation and mediation. (Ord. No. 1248 § 1)

Section 2.35.050 Powers and duties of commission

The Human Relations Commission shall:

Recommend to the Board of City Commissioners, from time to time, action and programs in furtherance of the purpose of the Human Relations Commission as described in this article.

Consult and advise with public officials and agencies and with private individuals and organizations to provide education regarding civil rights. The commission may, in its discretion, assist aggrieved individuals, but such assistance shall consist of information, guidance and, in its discretion, conciliation and mediation services. (Ord. No. 1248 § 1)

Section 2.35.060 Commission advisory in nature

The Human Relations Commission shall be advisory in nature and shall submit all reports and determinations to the Board of City Commissioners of the City of Dickinson. Final authority shall be in the Board of City Commissioners. (Ord. No. 1248 § 1)

Article 2.40 Special Assessments.

Sections:

- 2.40.010** Power to defray expenses of improvement by special assessments.
- 2.40.011** Improvement district to be created.
- 2.40.012** Size and form of improvement districts - regulations governing.
- 2.40.013** Engineer's report required - Contents.
- 2.40.014** Resolution declaring improvements necessary - Exception for sewer and water improvements - Contents of resolution - Publication of resolution.
- 2.40.015** Protest against resolution of necessity - Meeting to hear protest.
- 2.40.016** Protest bar to proceeding - Invalid or insufficient protests - Payment of costs - Tax levy.
- 2.40.050** Contracts for improvements.
- 2.40.051** Approval of plans, specifications, and estimates - Approval establishes grade of street.
- 2.40.052** Plans, specifications, and estimates filed in office of city administrator.
- 2.40.053** Contract proposals.
- 2.40.054** Engineer's statement of estimated cost required - City Commission to enter into contracts.
- 2.40.055** Execution and filing of contract.
- 2.40.056** Contracts.
- 2.40.057** Defects and irregularities in improvement proceedings are not fatal.
- 2.40.100** Assessment of Benefits.
- 2.40.105** Alternate Method
- 2.40.110** Special Assessment Commission - Terms.
- 2.40.200** Financing Improvements of Undeveloped Property by Special Assessment.

Section 2.40.010 Power to defray expenses of improvement by special assessments.

The City of Dickinson, upon complying with the provisions of this Chapter, may defray the expenses of any or all of the following type of improvements by special assessment:

The improvement of the municipal street system and any part thereof, including any one or more of the processes of acquisition, opening, widening, grading, graveling, paving, repaving, surfacing with tar, asphalt, bituminous, or other appropriate material, resurfacing, resealing, and repairing of any street, highway, avenue, alley or public place within the City of Dickinson, and the construction and reconstruction of overhead pedestrian bridges, pedestrian tunnels, storm sewers, curbs and gutters, sidewalks, and service connections for water and other utilities, and the installation, operation, and maintenance of street lights and all types of decorative street lighting, including but not restricted to Christmas street lighting decorations.

The construction of a water supply system, or a sewerage system, or both, or any part thereof, or any improvement thereto or extension or replacement thereof, including the construction and erection of wells, intakes, pumping stations, settling basins, filtration plants, standpipes, water towers, reservoirs, water mains, sanitary and storm sewer mains and outlets, facilities for the treatment and disposal of sewage and other municipal, industrial, and domestic wastes, and all other appurtenances, contrivances, and structures used or useful for a complete water supply and sewerage system.

The improvement of boulevards and other public places by the planting of trees, the construction of grass plots and the sowing of grass seed therein, and the maintenance and preservation of such improvements by the watering of such trees and grass, the cutting of such grass, and the trimming of such trees, or otherwise in any manner which may appear necessary and proper to the governing body of the City of Dickinson.

The acquiring of the necessary land and easements and the construction of the necessary works, within and without the City of Dickinson, for flood protection of properties within the City of Dickinson.

The acquiring or leasing of the necessary property and easements and the construction of parking lots, ramps, garages, and other facilities for motor vehicles. In planning an improvement project of a type specified in any one of the foregoing subsections, the City Commission may include in such plans any and all items of work and materials which in its judgment are necessary or reasonably incidental to the completion of an improvement project of such type. (Ord. No. 1183 § 1.)

Section 2.40.011 Improvement district to be created.

For the purpose of making an improvement project of one of the types specified in section 2.40.010 and defraying the cost thereof by special assessments, the City of Dickinson may create water districts, sewer districts, water and sewer districts, street improvement districts, boulevard improvement districts, flood protection districts, and parking districts, and may extend any such district when necessary. The appropriate special improvement district may be created by resolution. The district shall be designated by a name appropriate to the type of improvement for the making of which it is created, and by a number distinguishing it from other improvement districts. Nothing herein, however, shall prevent the City of Dickinson from making and financing any improvement and levying special assessments therefor under any alternate procedure set forth under Title 40, NDCC. (Ord. No. 1183 § 2.)

Section 2.40.012 Size and form of improvement districts - regulations governing.

Any improvement district created by the City of Dickinson may embrace two or more separate property areas, and may embrace the entire city. Each improvement district shall be of such size and form as to include all properties which in the judgment of the city commission, after consultation with the engineer planning the improvement, will be benefited by the construction of the improvement project which is proposed to be made in or for such district, or by any portion or portions of such project. A single district may be created for an improvement of the type specified in any one of the subsections of section 2.40.010, notwithstanding any lack of uniformity among the types, items, or quantities of work and materials to be used at particular locations throughout the district. The jurisdiction of the City of Dickinson to make, finance, and assess the cost of any improvement project shall not be impaired by any lack of commonness, unity, or singleness of the location, purpose, or character of the improvement, or by the fact that any one or more of the properties included in the district is subsequently determined not to be benefited by the improvement, or by a particular portion thereof, and is not assessed therefor. There may be omitted from a water or sewer district, in the discretion of the City Commission, properties within the corporate limits which are benefited by the improvement therein but do not abut upon a water or sewer main, without prejudice to the right and power of the municipality

subsequently, to assess such properties to the extent and in the manner permitted by law. The City Commission may, by resolution, enlarge an improvement district in which an improvement is proposed or under construction upon receipt of a petition therefor signed by the owners of three-fourths of the area to be added to the district. (Ord. No. 1183 § 3.)

Section 2.40.013 Engineer's report required - Contents.

After a special improvement district has been created, the City Commission, if it deems it necessary to make any of the improvements set out in section 2.40.010 in the manner provided in this chapter, shall direct the city engineer to prepare a report as to the general nature, purpose, and feasibility of the proposed improvement and an estimate of the probable cost of the work.. The engineer's report shall include estimates of the portion of the improvement contemplated each year, the period of years which the improvement will be completed, and the estimated cost of the improvement each year. (Ord. No. 1183 § 4.)

Section 2.40.014 Resolution declaring improvements necessary - Exception for sewer and water improvements - Contents of resolution - Publication of resolution.

After the engineer's report required by section 2.40.013 has been filed and approved, the City Commission, by resolution, shall declare that it is necessary to make the improvements described therein. A resolution shall not be required, however, if the improvement constitutes a water or sewer improvement as described in subsection 2 of section 2.40.010, nor if the governing body determines by resolution that a written petition for the improvement, signed by the owners of a majority of the area of the property included within the district, has been received. The resolution shall refer intelligibly to the engineer's report, and shall include a map of the City of Dickinson showing the proposed improvement districts. The resolution shall then be published once each week for two consecutive weeks in the official newspaper of the City of Dickinson. (Ord. No. 1183 § 5.)

Section 2.40.015 Protest against resolution of necessity - Meeting to hear protest.

If, within thirty days after the first publication of the resolution declaring the necessity of an improvement project of the type specified in any one of the subsections of section 2.40.010, the owners of any property within the improvement district file written protests describing the property which is the subject of the protest with the city administrator protesting against the adoption of said resolution, the City Commission, at its next meeting after the expiration of the time for filing such protests, shall hear and determine the sufficiency thereof. (Ord. No. 1183 § 6.)

Section 2.40.016 Protest bar to proceeding - Invalid or insufficient protests - Payment of costs - Tax levy.

If the City Commission finds the protests to contain the names of the owners of a majority of the area of the property included within the improvement district, the protests shall

be a bar against proceeding further with the improvement project described in the engineer's report. The termination of proceedings, by reason of protest or otherwise, shall not relieve the City of Dickinson of responsibility for payment of costs theretofore incurred; and for payment of such costs the City of Dickinson may, if funds on hand and available for the purpose are insufficient, issue its certificates of indebtedness or warrants, or levy a tax which shall be considered a tax for a portion of the cost of a special improvement project by general taxation within the meaning of section 57-15-10. If the protests are found to be insufficient or invalid, the City Commission may cause the improvements to be made and may contract or otherwise provide in accordance with this title for the construction thereof and the acquisition of the property required in connection therewith and may levy and collect assessments therefor. (Ord. No. 1183 § 7.)

Section 2.40.050 Contracts for improvements.

If the City Commission determines that the improvement should be made, it shall proceed on an annual basis, and consistent with the engineer's report, to make the improvements. The City Commission shall also direct the city engineer to prepare, on an annual basis, a report as to the portion of the project to be constructed, together with the estimated cost of the same. (Ord. No. 1183 § 8.)

Section 2.40.051 Approval of plans, specifications, and estimates - Approval establishes grade of street.

At any time after receiving the engineer's report required by section 2.40.013, and the annual report required by section 2.40.050, the City Commission may direct the city engineer to prepare detailed plans and specifications for construction of the improvement, or the portion of the improvement to be constructed at that time. The plans and specifications shall be approved by a resolution of the City Commission, which resolution may authorize advertising for proposals for the improvements. If the plans and specifications include the establishment of the grade of a street and such grade has not been established previously by ordinance, the resolution approving the plans, specifications, and estimates shall constitute an establishment of the grade. (Ord. No. 1183 § 9.)

Section 2.40.052 Plans, specifications, and estimates filed in office of city administrator.

The plans, specifications, and estimates shall be the property of the City of Dickinson and shall be filed in the office of the city administrator and shall remain on file in his office subject to inspection by anyone interested therein. The City Administrator shall furnish to any person applying therefor copies of the same, and may charge the costs of such copies, as established by the City. (Ord. No. 1183 § 10.)

Section 2.40.053 Contract proposals.

Proposals for the work of making improvements provided for in this chapter must be advertised for by the City Commission in the official newspaper of the city once each week for three

consecutive weeks. All proposals under this chapter are governed by the provisions of chapters 48-01.1 and 48-02, NDCC. (Ord. No. 1183 § 11.)

Section 2.40.054 Engineer’s statement of estimated cost required - City Commission to enter into contracts.

Before adopting or rejecting any bid filed under the provisions of this chapter, the City Commission shall require the city engineer to make a careful and detailed statement of the estimated cost of the work. The City Commission may not award the contract to any bidder if the engineer’s estimate prepared pursuant to this section exceeds the engineer’s estimate by forty percent or more. (Ord. No. 1183 § 12.)

Section 2.40.055 Execution and filing of contract.

All contracts entered into for any work provided for in this chapter shall be entered into in the name of the City of Dickinson and shall be executed on the part of the City of Dickinson by the President of the Board of City Commissioners and countersigned by the city administrator. After the contract is signed by the contractor, it shall be filed in the office of the city administrator. (Ord. No. 1183 § 13.)

Section 2.40.056 Contracts.

The provisions of Sections 40-22-36, 40-22-37, 40-22-39 and 40-22-40, NDCC, together with any amendments thereto, are hereby incorporated by reference. (Ord. No. 1183 § 14.)

Section 2.40.057 Defects and irregularities in improvement proceedings are not fatal.

Defects and irregularities in any proceedings had or to be had under this chapter relating to municipal improvements by the special assessment method, where the proceedings are for a lawful purpose and are unaffected by fraud and do not violate any constitutional limitation or restriction, shall not invalidate such proceedings, and no action shall be commenced or maintained and no defense or counterclaim in any action shall be recognized in the courts of this state founded on any such defects or irregularities in such proceedings, unless commenced within thirty days of the adoption of the resolution of the City Commission awarding the sale of warrants to finance the improvement. (Ord. No. 1183 § 15.)

Section 2.40.100 Assessment of Benefits.

For any special assessment improvements made under the provisions of this Chapter the assessments shall be made as set forth in Chapter 40-23 or 40-23.1, NDCC. (Ord. No. 1183 § 16.)

Section 2.40.105 Alternate Method

Article 2.40.110, as adopted herein, is an alternate method of levying special assessments for the City of Dickinson, pursuant to its home rule authority. Nothing herein shall prohibit the city

of Dickinson from proceeding under any other method of assessing benefits under Title 40 of the North Dakota Century Code. (Ord. No. 1183 § 17.)

Section 2.40.110 Special Assessment Commission - Terms.

Pursuant to NDCC §40-23-01, the City of Dickinson currently has a special assessment commission consisting of three commissioners, each serving a term of six years. Commencing on January 1, 2000, all subsequent terms shall be for three years, and expire on December 31 after the third year following the appointment, except that all members of the Special Assessment Commission as of January 1, 2000 shall continue to serve the terms which they were appointed.

Commencing January 1, 2001, the membership shall be increased to five members, by appointment by the Board of City Commissioners. The terms of the two additional commissioners shall be for two years and three years, respectively, thereafter all appointments shall be for three-year terms. (Ord. No. 1200, § 5; Ord. No. 1217, § 3.)

Section 2.40.200 Financing Improvements of Undeveloped Property by Special Assessment.

The owner of any undeveloped property may petition the City of Dickinson to make improvements to said property pursuant to the provisions of this Chapter. The city of Dickinson shall not authorize said improvements unless all of the provisions of this article are complied with, and the petitioner provides to the City of Dickinson an irrevocable letter of credit or other acceptable security to cover the cost of the improvements and all other associated costs. For purposes of this section, undeveloped property means property which does not have water, sewer, street, or curb and gutter.

Article 2.45 Historic Preservation Commission

Sections:

2.45.010	Purpose and Declaration of Public Policy
2.45.020	Creation of Historic Preservation Commission
2.45.030	Members - Qualifications - Appointment - Terms - Compensation - Conflicts
2.45.040	Chairman - Quorum
2.45.050	Meetings - Notice - Minutes
2.45.060	Powers of Commission
2.45.070	Employment of Staff
2.45.080	Appropriations - Funding
2.45.090	Definition of Terms

Section 2.45.010 Purpose and Declaration of Public Policy

(a) The purpose of this ordinance is to establish a program for the designation, preservation, protection, renovation and use of historic properties and/or historic districts within the City. The program shall:

- (1) Promote cultural stability and safeguard the heritage of the City.
- (2) Stimulate the tourist industry by preserving the City's economic base.
- (3) Stabilize and improve property values.
- (4) Foster economic development through increased pride of place.
- (5) Provide a mechanism to review and comment on proposed alterations, demolitions, constructions, and relocations within historic districts and with regard to historic properties and/or historic districts.
- (6) Promote knowledge and understanding of the City's historic properties and of the endeavors of the past.

(b) This ordinance will enable the City to:

- (1) Retain and enhance historic properties and/or historic districts within the City while allowing adaptation for current use by assuring that future construction, relocation and alterations are compatible with historic character.
- (2) Assure that zoning ordinances, building permits, subdivision of lots, construction, alteration, relocation and demolition adjacent to historic properties and/or historic districts are compatible with historic preservation principles.
- (3) Cooperate with and assist local, state and federal agencies implement and enforce federal and state legislation to identify, evaluate, designate, record, protect and preserve historic properties and/or historic districts. (Ord. No. 1257 § 1)

Section 2.45.020 Creation of Historic Preservation Commission

The Dickinson Historic Preservation Commission is hereby created (hereafter "the commission"). (Ord. No. 1257 § 1)

Section 2.45.030 Members - Qualifications - Appointment - Terms - Compensation - Conflicts

(a) The commission shall consist of seven (7) members who shall be residents of the City and/or the area within its extraterritorial jurisdiction.

- (b) The commission shall be comprised of persons with a demonstrated knowledge, special interest in or knowledge of history, architecture, archeology, historic preservation or related disciplines.
- (1) The majority of the members must have professional qualification in the fields of history, architectural history, prehistoric or historic archeology, architecture, folklore, cultural anthropology, curation, conservation, planning, landscape architecture or related disciplines.
 - (2) The requirements of this section may be waived, with the agreement of the State Historical Society of North Dakota, if individuals having these professional qualifications are not available for appointment, and reasonable efforts, as defined by the section, have been made to fill the positions.
- (c) Applicants shall be solicited by requests for resumes and written assurance of willingness and interest in serving made:
- (1) To city high schools and Dickinson State University staff, utilizing ordinary means established by the institution for such requests;
 - (2) To city architectural and engineering firms;
 - (3) To the Stark County Historical Society; and
 - (4) By public advertisement in a newspaper of general circulation.
- (d) After the deadline for submission thereof, and review of applicant resumes and their written assurance of willingness and interest in serving, commission members shall be appointed by the Chief Elected Official, subject to the approval of the State Historical Society of North Dakota.
- (e) All terms shall commence on January 1, 2003. Initially three members shall serve for a term of one year; two members shall serve for a term of two years; and two members shall serve for a term of three years. Individual term assignments will be selected by lot at the beginning of the first meeting of the commission. At the expiration of the initial terms, members shall be appointed for three-year terms but the member may serve until a successor has been appointed and the successor's appointment approved. Members of the commission may serve no more than three consecutive terms.
- (f) If a vacancy occurs other than by expiration of a term, it shall be filled by appointment for the un-expired portion of the term following the procedures set forth in this section. Notwithstanding the expiration of a member's term, such member may serve until a successor has been appointed and the successor's appointment approved.
- (g) No commission member shall be entitled to any compensation, except that necessary reasonable expenses incurred in the performance of their duties may be reimbursed.
- (h) It is recognized that conflicts of interest for commission members may occur due to the possibility of direct or indirect personal financial gain. Commission members in this position shall abstain from the discussion or voting on such matters. (Ord. 1257 § 1.)

Section 2.45.040 Chairman - Quorum

The commission shall, at its first meeting following January 1 in each year, elect a chairperson and vice chairperson to serve until their successors are elected.

A majority of the members of the commission shall constitute a quorum to conduct business. (Ord. No. 1257 § 1.)

Section 2.45.050 Meetings - Notice - Minutes

The commission shall solicit public participation in its decisions and activities. It shall conduct itself in ways which encourage public participation. In furtherance of this goal:

The commission shall hold at least four (4) meetings annually. The dates for the four (4) required meetings shall, except for the first year of the commission's operation, be set at least a year in advance.

All meetings shall be open to the public; shall be held in a facility accessible to the disabled; and shall be upon such notice as required by law. Unless law shall provide greater notice, the notice of the meeting and its agenda must be published at least ten (10) calendar days prior to the meeting in a newspaper of general circulation. The meeting notice and agenda shall be sent to the North Dakota State Historic Preservation Office at least ten (10) calendar days before the meeting.

The commission's rules governing its own operation and minutes of all commission meetings shall be maintained at City Hall or the offices of the commission; shall be accessible during business hours to the public; and shall be filed at the State Historic Preservation Office within fifteen (15) days following each commission meeting, or at such other times as may be directed. (Ord. No. 1257 § 1.)

Section 2.45.060 Powers of Commission

Subject to the restrictions and limitations of this ordinance, the commission is hereby empowered to represent the Dickinson City Commission and act in its interest. The following powers and duties are specifically conferred upon the commission:

- (a) Consistent with this ordinance, to promulgate rules governing its own operation.
- (b) To make recommendations to the Board of City Commissioners:
 - (1) Concerning the acquisition of fee simple and less than fee simple rights in property within the City for purposes of historic preservation;
 - (2) To identify and recommend, for historic preservation purposes, such persons or entities to which fee simple or less than fee simple rights should be granted;
 - (3) For any additional ordinances, resolutions and/or administrative procedures required to implement this ordinance or to assure adherence to regulations promulgated by the federal or state government pertaining to the certified local government program.;
 - (4) Regarding application for and acceptance and utilization of grants from federal, state and local agencies or other entities and individuals;
 - (5) For budgetary appropriations to promote and advance historic preservation within the City and to otherwise implement this ordinance;
 - (6) Concerning any historic preservation issues or concerns including, without limitation, its enforcement of federal, state and local legislation for the designation and protection of historic properties and/or historic districts;
 - (7) Concerning the need for protection of historic properties and/or historic districts within the impact area of any government approved, funded, assisted or licensed projects and proposed means of mitigating any adverse effect;
 - (8) Designate property within the City that meets the Secretary of the Interior's Standards for Identification and Registration of Historic Properties, the Secretary of the Interior's Criteria of Significance, the standards set by the National Register of Historic Places, and/or the North Dakota Historic Sites Registry;

- (9) To implement the program referred to in (e), below;
 - (10) To prepare and submit, in accordance with all applicable federal and state laws and regulations, property nominations to the National Register of Historic Places, and/or the North Dakota Historic Sites Registry;
 - (11) To accept gifts or grants;
 - (12) To contract to obtain expertise from persons with professional qualifications in a discipline not represented by membership on the commission.
- (c) To make recommendations to administrative staff, the Planning and Zoning Commission and Board of Adjustment of the City and any Renaissance Zone Commission established within the City:
- (1) With respect to any building permits, zoning changes, or variances which are pending or issued by the City which may affect historic properties and/or historic districts. The commission shall have no power to prohibit the issuance of any building permit;
 - (2) To review and comment on any issues concerning historic properties and/or historic districts or historic preservation, even if a building permit is not otherwise required by City ordinances for its construction, alteration, demolition or relocation;
 - (3) Concerning any historic preservation issues or concerns;
- (d) To prepare, or have prepared on its behalf, a comprehensive survey, according to the standards promulgated by the State Historical Society of North Dakota, to assist the City in designating properties within the City that meet the Secretary of the Interior's Standards for Identification and Registration of Historic Properties, the standards set by the National Register of Historic Places, and/or the North Dakota Historic Sites Registry;
- (e) To develop, or to have developed on its behalf, a program for the designation, protection and recognition of historic properties and/or historic districts within the City;
- (f) To review property nominations to the National Register of Historic Places according to the standards and procedures promulgated by the State Historical Society of North Dakota;
- (g) To preserve records of surveys of historic or potentially historic properties and/or historic districts within the City and to file such information at the North Dakota State Historic Preservation Office;
- (h) To review and comment upon plans, proposals, permits and applications which are developed or required by any federal, state, and local agencies or by other entities which may, in the opinion of the commission, either directly or indirectly affect any historic properties and/or historic districts;
- (i) To review and comment upon all certifications of significance and certifications of rehabilitation as requested by the North Dakota State Historic Preservation Officer;
- (j) To review and comment to state or federal agencies regarding the presence of historic properties and/or historic districts within the impact area of any government funded, assisted or licensed projects, to the extent of the project's effect on historic properties and/or historic districts, and proposed means of mitigating any adverse effect;
- (k) To develop and participate in programs to increase public awareness of the value of historic preservation and historic properties and/or historic districts and of the program established by this ordinance;
- (l) To perform any other functions which may be delegated to it by the Board of City Commissioners. (Ord. No. 1257 § 1.)

Section 2.45.070 Employment of Staff

The City may provide staff for the commission. (Ord. No. 1257 § 1.)

Section 2.45.080 Appropriations - Funding

The Board of City Commissioners may appropriate funds for the operation of the commission. The commission shall receive, hold, dispose and account for assets of any nature or description and all funds received from any source. A special revenue fund known as the Historic Preservation Fund shall be created to receive all funds and account for all fund expenditures made. (Ord. No. 1257 § 1.)

Section 2.45.090 Definition of Terms

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

Appurtenances: A feature related to a parcel of land or to a property including, but not limited to, buildings, objects, fences, signs, sidewalks, etc.

Building: A structure created to shelter any form of human activity, such as a house, garage, barn, church, hotel, or similar structure.

Chief Elected Official: Means the President of the Board of City Commissioners.

City: Means the city of Dickinson, North Dakota.

Commission: The Dickinson Historic Preservation Commission, a local historic preservation commission.

Construction: The addition, or placement of any improvement onto any historic property or historic district.

Criteria of Significance: The quality of significance in American history, architecture, archeology, engineering, and culture present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, 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 are associated with the lives of persons significant 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 may be 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, evaluation and registration of property for protection that meet criteria established by the State Historic Preservation Office or by the commission.

Eligibility: A determination by the commission or other legal authority, that a historic property meets the Criteria of Significance.

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 discontiguous 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 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 adopted by the State Historic Preservation Office.

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.

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

National Register of Historic Places: A federal list of cultural resources worthy of preservation, authorized under the National Historic Preservation Act of 1966 as part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect the nation's historic and archaeological resources. The National Register Program is administered by the 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 or determined eligible for the listing in the National Register.

Object: An object is distinguishable from buildings or 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 and may include, monuments fountains, statuary, mileposts, sculpture, et.al.

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.

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

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

Protection: The commission review process for proposed conservation, demolition, alteration, improvement, relocation or other action that may affect historic properties and/or historic districts.

Site: A 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 possesses historic, cultural or archeological value regardless of the value of any existing structure.

State Historic Preservation Office: The Historic Preservation Division of the State Historical Society of North Dakota.

State Historic Preservation Officer: The person designated by the Governor to hold this position.

Structure: A constructed work of human origination created for purposes other than providing human shelter and may include constructions such as aircraft, automobiles, bridges, dams, earthworks, railroad facilities and equipment, et.al. (Ord. No. 1257 § 1.)

Article 2.50 Oil and Gas Trust Fund

Sections:

2.50.010	Dickinson Future Fund
2.50.020	Deposits
2.50.030	Expenditures
2.50.040	Board of Trustees

Section 2.50.010 Dickinson Future Fund

There is hereby created a limited expendable trust fund called Dickinson Future Fund for the deposit of revenues from oil, gas and other mineral interests, together with other revenues deemed appropriate by the Board of City Commissioners, to be administered as set forth in this article. (Ord. 1221 § 1; Ord. No. 1277 § 1.)

Section 2.50.020 Deposits

The Board of City Commissioners may, annually or at such times as it deems appropriate, deposit all or a portion of the revenues the City of Dickinson derives from oil, gas or other mineral interests and other revenues deemed appropriate by the Board of City Commissioners in the Dickinson Future Fund. Such revenues may include, but are not limited to bonus payments, delay rentals, revenue interests, production payments, and any other revenue derived from oil, gas and other mineral interests owned by the City of Dickinson. (Ord. 1221 § 1; Ord. No. 1277 § 2.)

Section 2.50.030 Expenditures

Upon deposit in the Dickinson Future Fund, such funds shall not be expended by the Board of City Commissioners, except as provided herein.

(a) Principal, Interest and Dividends. The Board of City Commissioners may annually withdraw an amount not to exceed 5% of the cash balance as of January 1 of the current year to supplement the general fund and reduce property taxes.

(b) The principal and interest of said fund shall not be considered unencumbered cash on hand or income therefrom for budgetary purposes under NDCC Chapter 40-40. (Ord. 1221 § 1; Ord. No. 1252 § 1; Ord. No. 1277 § 3.)

Section 2.50.040 Board of Trustees

A Board of Trustees, consisting of two City Commissioners, the City Administrator, and the Finance Director, shall manage the Dickinson Future Fund, and determine investment guidelines for said fund. The Board of Trustees may select a funding agent or agents to hold and invest the funds of the Dickinson Future Fund. The funds may be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. (Ord. 1240 § 1; Ord. No. 1277 § 4.)

Article 2.60 Cemetery Trust Fund

Sections:

2.60.010 Cemetery Trust Fund No. 2

Section 2.60.010 Cemetery Trust Fund No. 2

There is hereby created a perpetual care fund to be administered by the City Administrator of the City of Dickinson.

The City is hereby authorized to accept donations from any and all sources to such fund.

The principal of such fund shall remain in trust with the interest on said principal to be utilized as operating funds for the care and maintenance of cemeteries owned, maintained or operated by the City of Dickinson.

All non-tax funds currently held by the City which have been designated for such purpose shall be merged herewith and administered as part of this cemetery trust fund.

The Board of City Commissioners may allocate a portion of the fees generated from sale of cemetery lots or other fees received for cemetery purposes to the principal of this fund, to be administered as set forth herein. (Ord. 1222 § 1.)

Article 2.70 Development Impact Fees

Sections:

2.70.010	Requirements for Development Approval
2.70.015	Definitions
2.70.020	Imposition of impact fee
2.70.030	Application for Impact Fee Approval
2.70.040	Review by City Engineer
2.70.050	Notification to Property Owners
2.70.060	Approval of Application and Establishment of development service areas
2.70.070	Plans and Specifications
2.70.080	Assessment
2.70.090	City Commission Approval of Assessment
2.70.100	Payment of Impact Fees
2.70.110	Impact fee exemptions

Section 2.70.010 Requirements for Development Approval

All impact fees approved under this chapter shall comply with the following terms and conditions:

If a developer owns at least 51% of the affected properties in a proposed improvement area, the developer may apply to the City for special assessments to be placed upon properties in the proposed improvement area, in order to pay, in part, for improvements to the affected properties.

The City shall require the developer to cover at least 50% of the costs of improvements. The City may assess up to 50% of the cost of improvements to benefited properties to a maximum amount, as set forth in Section 2.70.020

In enacting this Article 2.70, the Board of City Commissioners finds that by requiring the developer to pay for at least 50% of the costs, that person or company will be at considerable risk for the improvements and less likely to abandon the project after construction of improvements.

If the City initiates a street improvement project, proportionate costs of water, sewer, storm water, curb, gutter, and sidewalk will be assessed to benefited properties.

If the City initiates any necessary infrastructure improvements in an area a developer or landowner is not ready to develop, the City will cover the costs of the improvement and assess proportionate impact fees on benefited properties following development.

All developer proposed improvements are subject to approval by the City and must be designed to City standards.

All properties served by City improvements or services must be in the City limits.

All properties eligible to apply for development impact fees must be within city limits or annexed thereto prior to approval of the development impact fee application. No property lying outside of city limits shall be eligible to obtain development impact fees or cost participation by the City.

The Board of City Commissioners finds that it is in the best interests of the City to prioritize “in-fill” development projects over those that may wish to be annexed to the City. Accordingly, preference in the granting and approval of development impact fees may be given to those properties within city limits as of August 1, 2010.

Application for development impact fees shall not be made prior to approval of a final plat by the Planning and Zoning Commission.

Cost share reimbursement by the City shall be made only upon the City's receipt of actual invoices from the developer. Total cost share reimbursement shall not exceed 50% of the actual costs incurred by the developer for the improvements. Total cost share reimbursement shall not exceed the estimates provided by the developer in the development impact fee application filed with the City.

A developer shall have a period of 12 months from the date of the approval of the application in which to begin construction. In the event construction has not commenced within 12 months of the date of approval of the application, such application and approval shall be null and void, and shall require a new application and approval. (Ord. No. 1285 § 1; Ord. No. 1311 §1 Ord. No. 1396 § 1.)

Section 2.70.015 Definitions

For the purpose of this Article, the following terms shall have the definitions set forth below:

- A. Contiguous Lot. Two or more platted lots which share a common boundary. Lots shall be considered contiguous, regardless of whether one or more of said lots is outside the development service area.
- B. Developer. The person or entity who submits an Application for impact fee approval pursuant to
- C. Improvement. Any public improvement for which impact fees may be assessed, including streets, water, sewer, storm water, curb, gutter and sidewalk.
- D. Residential Improvement Project. Any proposed development project for which the majority of land within the proposed development area consists of lots intended and designated for residential development and appropriately zoned therefore.
- E. Commercial/Industrial Improvement Project. Any proposed development project for which the majority of the land within in proposed development area consists of lots intended and designated for commercial or industrial development and appropriately zoned therefore. (Ord. No. 1285 §1 Ord. No. 1396 §1)

Section 2.70.020 Maximum Financial Participation by the City

- 1. The City will permit a maximum of \$7 million in assessments and/or cost share in improvements at any time citywide.
- 2. The City will permit a maximum of \$300,000 in assessments and/or cost share for any single Residential Improvement Project.
- 3. The City will permit a maximum of \$600,000 in assessments and/or cost share for any single Commercial/Industrial Improvement Project.
- 4. The City shall endeavor to limit outstanding development impact fees for Residential Improvement Projects to less than \$4 million, and for Commercial/Industrial Improvement Projects to less than \$3 million; provided, however, that such limits may temporarily be exceeded, so long as the maximum limit of \$7 million for all outstanding development impact fees is not exceeded. (Ord. No. 1396 § 1)

Section 2.70.030 Application for Impact Fee Approval

Any person or entity desiring to utilize impact fees for the construction of improvements and infrastructure for undeveloped property shall make application to the City Engineer on the form provided by the City Engineer. The developer shall also pay, at the time the application is

submitted, an application fee in such amount as is set in the City Fee Schedule. (Ord. No. 1285 § 1.)

Section 2.70.040 Review by City Engineer

After receipt of an impact fee application, the City Engineer shall review said application, and may request additional information from the developer. (Ord. No. 1285 § 1.)

Section 2.70.050 Notification to Property Owners

If the development service area contains property owned by any person or entity other than the developer, the City shall provide written notice by Certified Mail to each such property, which shall include a map of the service area, and the application. Each property owner shall have 15 days after the date of mailing of said notice to file a written protest to the application. (Ord. No. 1285 § 1.)

Section 2.70.060 Approval of Application and Establishment of development service areas

At any time after receiving the recommendation of the City Engineer, but not less than 15 days after the date of mailing Notification to Property Owners pursuant to Section 2.70.050, the Board of City Commissioners shall consider the Application and any written protests and, may in its discretion:

- A. Approve the Application with or without changes or conditions;
- B. Establish the maximum financial participation of the City of Dickinson in the project;

and

- C. Designate the development service area for the project.

In designating service areas, such areas shall provide a nexus between those paying the fees and receiving the benefits to ensure that those developments paying impact fees receive substantial benefits. Service areas may be designated by the city commission upon consideration of the following factors:

- 1. The comprehensive plan.
- 2. Standards for adequate public facilities incorporated in the capital improvement plan.
- 3. The projections for full development as permitted by all applicable, zoning, storm water and other land use ordinances and timing of development.
- 4. The need for funding unprogrammed capital improvements necessary to support projected development.
- 5. Such other factors as the city may deem relevant. (Ord. No. 1285 § 1.)

Section 2.70.070 Plans and Specifications

The developer shall provide plans and specifications for the improvements prepared by an engineer licensed and certified by the State of North Dakota, which must be approved by the City Engineer. (Ord. No. 1285 § 1.)

Section 2.70.080 Assessment

After the total amount of impact fees to be charged to all property owners within the development service area has been determined, the amount of fees to be assessed against each parcel of property shall be determined in the same manner as special assessments are assessed under the provisions of Article 2.40 of the City Code, and Chapter 40-23 and 40-23.1 of the North Dakota Century Code. If a developer has made payments for improvements for which the impact fee is assessed to property not owned by the developer, the developer may, at the discretion of the Special Assessment Commission, receive a credit for the amount of such payments. (Ord. No. 1285 § 1.)

Section 2.70.090 City Commission Approval of Assessment

The City Commission shall consider and approve, by resolution, the impact fees to be assessed against each parcel located in the development service area. (Ord. No. 1285 § 1.)

Section 2.70.100 Payment of Impact Fees

Impact fees certified pursuant to this chapter shall be assessed and paid as follows:

- A. The impact fee shall be due and payable by the property owner at the time the city's commitment to the project is met.
- B. The impact fee may be paid in full, immediately, at the option of the property owner.
- C. If not paid in full immediately, the impact fee shall be assessed against the property owner as follows:
 - 1. For a Residential Improvement Project, the impact fee shall be assessed against the property for a period not to exceed ten years, with interest charged thereon at the rate allowable for special assessments.
 - 2. For a Commercial Industrial Improvement Project, the impact fee shall be assessed against the property for a period not to exceed five years, with interest charged thereon at the rate allowable for special assessments.
- D. If the property owner requests that the impact fee be assessed against the property, the fees shall be certified to the County in the same manner as special assessments. (Ord. No. 1285 § 1; Ord. No. 1311 §3. Ord. No. 1396 §1)

Section 2.70.110 Impact fee exemptions

Parks and recreation facilities owned or operated, in whole or in part, by the city may be exempt from the requirement for payment of impact fees. (Ord. No. 1285 § 1.)