

CHAPTER 1
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SEC. 1-1 HOW CODE DESIGNATED AND CITED.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of the City of Carrington, North Dakota, 1984," and may be cited. Such Code may also be cited as Carrington City Code, 1984."

SEC. 1-2. DEFINITIONS AND RULES OF INTERPRETATION.

In the construction of this Code and of all ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the City Council;

"Boulevard" – The word "boulevard" is defined as that strip of land abutting on either side of the streets of the city lying between the outside edge of the sidewalks and the curb along such streets.

"City" – The words "the city" or "this city" shall be construed as if followed by the word "of Carrington."

"Code" – The words "the Code" or "this Code" shall mean "the Code of the City of Carrington, North Dakota, 1984. "

"Computation of Time" (1)- The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last is a holiday, and then it is also excluded.

"COUNCIL"- The word "council" shall be construed as though the words "of the City of Carrington" followed it.

"COUNTY"- The word "county" or "the county" means Foster County in the State of North Dakota."

"DAY"- A day is the period of time between any midnight and the midnight following.

"DAYTIME, NIGHTIME"- "Daytime" is the period between sunrise and sunset.

"Nightime" is the period of time between sunset and sunrise.

“GENDER” (2) Words used importing masculine gender include the feminine and neuter.

“IN THE CITY”- The words “in the city” shall mean and include all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

“JOINT AUTHORITY”- All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons.

“MONTH” (3)- The word “month” shall mean a calendar month.

“NUMBER” (4)- The singular number includes the plural, and the plural the singular.

“OATH” (5)- “Oath” shall include “affirmation.”

“OFFICERS, DEPARTMENTS, ETC.” - Officers, departments, boards, commissions and employees referred to shall mean officers, departments boards, commissions and employees of the City of Carrington, unless the context clearly indicates otherwise.

“OR, AND –“Or” may be read “and” and “and” may be read “or”, if the sense requires it.

“OWNER”- The word “owner”, applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, or joint tenant of the whole or a part of such building or land.

1. For similar state law, see NDCC 1-02-15.
2. For similar state law, see NDCC 1-01-34.
3. For similar state law, see NDCC 1-01-33.
4. For similar state law, see NDCC 1-01-35.
5. For similar state law, see NDCC 1-01-49.

“PERSON” (6)- The word “person” except when used by way of contrast, shall include not only a human being, but a body politic or corporate.

“PERSONAL PROPERTY” (7) Shall include money, goods, chattels, things in action and evidences of debt.

“PRECEDING, FOLLOWING” The words, “preceding” and “following” mean next before and next after, respectively.

“PROPERTY” (8) Shall include property, real and personal.

“REAL PROPERTY” (1) Shall be coextensive with lands, Tenements and hereitaments.

“SEVERAL” (2) The word “several” in relation to number, shall mean two or more.

“SHALL, MAY” The word “shall” is mandatory and the word “may” is permissive.

“SIDEWALK”- The word “sidewalk” means that portion of a street between the curb lines, or the later lines of a roadway and the adjacent property lines, intended for the use of pedestrians.

“SIGNATURE or SUBSCRIPTION” (3) – Shall include a “mark” when the person cannot write, his name being written near it and written by a person who writes his own name as a witness.

“STATE” The words “state” or “the state” shall mean the State of North Dakota.

“STREET” – The word “street” means the entire width between property lines of every way or place of whatsoever nature when any part thereof is open to the use of the public as a matter of right of way for purposes of vehicular traffic.

“USUAL and CUSTOMARY” (4) The words “usual” and “customary” shall mean according to usage”.

“CITY ENGINEER” The word “city engineer” shall mean the duly appointed city engineer and also the duly appointed Public Works Superintendent.

6. For similar state law, see NDCC 1-01-28.
7. For similar state law, see NDCC 1-01-49.
8. For similar state law, see NDCC 1-01-49.
1. For similar state law, see NDCC 1-01-49
2. For similar state law, see NDCC 1-01-29.
3. For similar state law, see NDCC 1-01-49
4. For similar state law, see NDCC 1-01-32

“Written and Printed” (5)- The words “writing” and “written” shall include “typewriting” and typewritten” and “printing” and “printed” except in the case of signatures and when the words are used by way of contract to “typewriting” and “printing.” Writing may be made in any manner, except that when a person entitled to require the execution of a writing demands that it be made with ink, it must be so made.

“Year” (6)- The word “year” shall mean a calendar year, except where otherwise provided.

SEC. 1-3 CATCH LINES OF SECTIONS.

The catch lines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor unless expressly so provided shall they be so deemed when any of such sections, including the catch lines are amended or re-enacted.

SEC. 1-4. PROVISIONS CONSIDERED AS CONTINUATIONS OF EXISTING ORDINANCES.

The provisions appearing in this Code, so far as they are substantially the same as those of ordinances existing at the time of the adoption of this Code, shall be construed as a continuation thereof and not as new enactments.

SEC. 1-5. SEVERABILITY OF PARTS OF CODE.

Should any section, paragraph, sentence, clause, phrase or word of this Code be declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs or sections of this Code, since the same would have been enacted by the city council without the incorporation in this Code of any such invalid or unconstitutional word phrase clause, sentence, paragraph or section.

SEC. 1-6. REPEAL DOES NOT REVIVE ORDINANCE PREVIOUSLY REPEALED.

Whenever any ordinance of the city council, which repealed a former ordinance, is repealed, such former ordinance shall not be revived by such repeal, unless there is express provision to the contrary.

5. For similar state law, see NDCC 1-01-37.
6. For similar state law, see NDCC 1-01-33.

SEC. 1-7. REPEAL; EFFECT.

The repeal of any ordinance by the city council shall not have the effect of releasing or extinguishing any penalty, fine, liability or forfeiture incurred under such ordinance, but as to cases tried before, or subsequent to, the repeal of such ordinance, it shall have the effect of extinguishing any jail or prison sentence that may be, or that has been, imposed by reason of such law, unless the repealing ordinance shall provide expressly that the penalties of imprisonment shall remain in force as to crimes committed in violation of such law prior to its repeal. In other respects such ordinance shall remain in force only for the purpose of the enforcement of such fine, penalty or forfeiture.

SEC. 1-8. OFFICIAL TIME.

Central division standard time, based on the nineteenth meridian of longitude west from Greenwich, or central division daylight time, whichever may be legally in effect in the city, shall be the official time for the city. All provisions of this Code or other ordinances providing for the doing or not doing of any act or thing after or before a certain time, and the time designated for holding the police municipal's court, or the orders made therein, and the meetings of the city council or the performance of any contract in which the city is a party where time is made or the performance of any contract in which the city is a party where time is made an element in the transaction, shall be taken to mean the legal central standard or daylight time.

SEC. 1-9 – GENERAL PENALTY, CONTINUING VIOLATIONS (7)

Whenever in this Code or in any ordinance of the city or in any rule or regulation promulgated pursuant thereto, any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code or any ordinance or in any rule or regulation promulgated pursuant thereto, the doing of any act is required or the failure to do any act is

declared to be unlawful, or is declared to be a class B misdemeanor, and where no specific penalty is provided therefor, any person upon conviction for the violation of any such provision of this Code or any ordinance or any such rule or regulation shall be punished by a fine not exceeding one thousand five hundred dollars (\$1,500.00) or by imprisonment not to exceed thirty (30) days or by both such fine and imprisonment, for each such offense. Each day any violation of any provision of this Code or of any ordinance or of any such rule or regulation shall continue shall constitute a separate offense. In the construction and interpretation of this section, the revocation of a license or permit shall not be considered as a recovery or penalty so as to bar any other penalty being enforced.

SEC. 1-9-1. – INFRACTIONS.

A maximum fine of one thousand dollars (\$1,000.00) may be imposed for infractions. Any person convicted of an infraction who has, within one (1) year prior to commission of the infraction of which the person was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

SEC. 1-10. COST TO BE ADDED TO FINES.

7. For state law limiting city fines and penalties, see NDCC: 40-05-06. As to penalty for violation of bicycle regulations, see :7-13 of this Code

In each case of a conviction of a violation of any of the provisions of this Code or other ordinances of the city or any part thereof, where a fine is imposed, all costs of prosecution shall be added to such fines as a part of the punishment.

SEC. 1-11. DISPOSITION OF FINES, ETC.; USE OF BAIL SCHEDULE.

All fines or forfeitures collected upon conviction or upon forfeiture of bail of any person charged with the violation of any provision of this Code or other city ordinance shall be disposed of as by law provided. The municipal judge may file with the police chief a schedule in writing by the municipal judge, indicating the amount of bail fixed by such municipal judge, for the release of persons arrested or charged, with any violation of the provisions of this Code or other ordinance and based on the offense charged, which schedule shall be applicable until modified, amended or revoked for the bail to be furnished in his absence from the municipal court, and any person who pays or delivers such bail to the chief of police or any other person in charge of the police department at the time, shall be immediately released from custody; provided, that the municipal judge may in all cases where he is present in municipal court fix bail in such amounts or upon such conditions as may be provided by law and within his discretion without regard to the bail schedule provided and applicable in his absence from municipal court.

SEC 1-12. IMPRISONMENT ON FAILURE TO PAY FINE

Whenever any person shall be convicted of violating any of the provisions of this ordinance or of any of the ordinances now in force in the City of Carrington, or hereafter adopted by said city and the punishment prescribed for such violation shall be a fine; when a person so convicted shall fail to pay the fine imposed by the Municipal Judge according to the terms of said ordinance or ordinances, then the person so violating such ordinance shall be by said municipal Judge committed to the city jail or some other place theretofore designated by the city council for a period of time to be fixed by said Municipal Judge, in no instance to exceed a period of one day for each one dollar and twenty-five cents of such fine and in no case to exceed a period of ninety days. It shall be the duty of the said Municipal Judge at the time of imposing; such sentence upon any person deemed guilty, or of imposing the fines provided in said ordinance or ordinances, to fix and designate a certain period of time which the person so convicted shall be imprisoned in case of non-payment of the fine imposed therein.

(Source: Rev. Ord. of Carrington 1940; Sec. 210; NDCC 40-18-12.)

SEC. 1-13. FINES WORKED OUT.

Any person convicted of a violation of this Ordinance or of any other ordinances now in force in the City of Carrington, or any that may hereafter be passed, and who shall have been committed to jail, shall be compelled to work upon the streets, alleys and public grounds of the city each day during the term of his imprisonment, under the care and direction of the street Commissioner or Chief of Police; and any fine imposed and paid in labor under the provision hereof, shall be credited with the amount so paid in labor at the rate of ten dollars for each day's labor actually done by the offender, and upon refusal of any prisoner to work when requested, he shall then be confined for the same period of time, upon a diet of bread and water.

(Source: Rev. Ord. of Carrington, 1940; Sec. 211; NDCC; 40-18-12.)

SEC 1-14. PARDONING POWER OF MAYOR (1)

The mayor of the city may at any time pardon and release any person imprisoned for the violation of any provision of this code or the other ordinances of the city and shall report such pardon and release, with the reason therefor, to the city council at its first session thereafter.

SEC 1-15. SUMMONS OR WARRANT FOR ARREST (2); POWERS OF ARREST OR CERTAIN OFFICERS.

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

1. For state law as to pardoning power of mayor, see NDCC 40-08-21.

2. For state law as to summons or warrant for arrest for violation or ordinances, see NDCC: 40-11-11.

Any constable of the county, the sheriff of the county, the chief of police or any policemen of the city is authorized to execute any warrant charging a violation of any provision of this code or any other ordinance of the city any may arrest any person who he shall find committing any violation of any provision of this code or other ordinance of the city, without a warrant.

SEC. 1-16 REAL AND PERSONAL PROPERTY TRANSFERS

Real property belonging to the municipality shall be conveyed, sold, leased or disposed of, only as approved of by a two-thirds vote of all members of the governing body. Personal property shall be conveyed by a majority vote of all members of the governing body.

a. When the property to be disposed of, whether real property or personal property is estimated, by the governing body of the municipality to be of a value of less than \$2,500.00, such property may be sold at private sale upon the proper resolution of the governing body. In all other cases, except as otherwise provided herein, such property may be sold only at public sale or as provided under section 40-11-04.2 of the North Dakota Century Code (Source: North Dakota Century Code section 40-11-04).

b. If the city council determines that the sale of any lot should be by public sale, 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 newspaper once each week for two consecutive weeks with the last publication being at least ten (10) days in advance of the date set for the sale. The notice shall specify whether the bids are to be received at auction or as sealed bids prior to sale as determined by the city council and advise bidders of specific instructions which may be available at the office of the city auditor.

c. Bids for the purchase or lease of real property belonging to the municipality, whether or not advertisement therefore has been made, shall be made directly to the governing body and submitted to the city auditor, who shall present any and all such bids to the governing body at its next regularly scheduled meeting. The City may reserve the right to waive irregularities or defects in bids. The City may place additional conditions relative to the sale of property and may award the bid to the highest and/or best bid at the discretion of the governing body considering the interests of the City. The successful bidder shall be required to execute a purchase agreement outlining the terms of the purchase as determined by a majority vote of the members present.

d. Except as otherwise provided herein, any instruments or agreements of conveyance, sale, lease, or disposal shall be valid only when duly executed by the mayor and attested by the city auditor.

e. If this section is in conflict with specific statutory provisions contained in the North Dakota Century Code which provide a procedure governing the conveyance, sale, lease or disposal of real property, this section shall be applied as much as possible in concert with said provisions of state law. Said statutory procedures include the following:

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

f. Upon adoption of a resolution by a vote of a minimum of five (5) members of the city council, the city council may waive the requirements for advertising and public sale of personal or real property and thereafter sell, transfer and/or convey such surplus real or personal property under the terms and conditions established by the council to:

- (1) Any authority, commission, body or entity created in whole or in part by the city;
- (2) The State of North Dakota or any political subdivision, to be used as right-of-way for public improvements;
- (3) Any person, organization or entity, to be used for the expressed and limited purpose of developing and/or constructing affordable housing projects as designated and approved by the city council;
- (4) Any person, organization, or entity in the course of a like kind exchange of real property.
- (5) Any person, organization or entity whose primary purpose and effort is promotion, restoration, protection, and/or preservation of culturally, socially, politically, economically, architecturally, and/or historically significant buildings, sites, monuments, structures and objects.
- (6) Any person, organization, or entity when the property will be used for the purpose of historic preservation under an historic mitigation plan or agreement.
- (7) Any person, organization, or entity redeveloping property within the city's renaissance zone.
- (8) Any person, organization or entity, which submits cash, a cashier's check, and/or a bond in the amount of seventy-five (75%) of the purchase price, to be used for the expressed and limited purpose of developing and/or constructing a single-family or multi-family residential development; however, if, for at least five (5) single-family residences or ten (10) multi-family units, certificates of occupancy, equivalent documents for manufactured or modular buildings, or the

authorization for moving buildings into the City for placement upon such real property are not filed with the City Auditor within twenty-four (24) months of the date of purchase of said real property by the person, organization or entity, then the cash, cashier's check, and/or bond shall be forfeited to the City and the City may revoke, cancel, or terminate any City grants, funds, aid, incentives, or any other benefit given to the person, organization, or entity by the City. To be eligible for the waiver a single-family residential development must contain a minimum of five (5) single-family residences and a multi-family residential development must contain at least ten (10) units for individuals or families. A person, organization or entity is not eligible for the waiver if that party owes any amount to the City or owes any delinquent real estate taxes to any county in the state of North Dakota.

(9) Any person, organization or entity, developing property within the City's industrial park.

Real Property Transfer Requirements

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