

**CHAPTER ONE**  
**GOVERNMENT ORGANIZATION**

**ARTICLE 1 - JURISDICTION**

**1.0101 Over Persons and Property**

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

Source: Section 40-06-01 NDCC

**1.0102 Defining City Limits**

There shall be included within the municipal limits of the City of Medora, North Dakota, all areas duly platted and recorded as being within said City; all lots and blocks shall also include all streets, alleys and public ways included within the area and adjacent thereto which are defined as within the confines of the city limits. The City Council shall have jurisdiction within the corporate city limits and over any common or public grounds belonging to the City, and in and over all places within one-half mile of the municipal limits for the purpose of enforcing zoning, health and quarantine ordinances and regulations, subject to Chapter 23-07.6 NDCC, (health and safety) and police regulations ordinances and North Dakota statutes adopted to promote the peace, order, safety and general welfare of the municipality.

Source: Section 40-06-01 NDCC

**1.0103 Division of City into Precincts**

There shall be one precinct within the City of Medora to be known and designated as: The City of Medora, and said precinct shall consist of all that part of the City of Medora which lies within the boundaries hereinafter set forth and the polling place shall be located at the site hereinafter set forth, to-wit: City limits of the City of Medora and the Billings County Courthouse.

Source: Sections 40-21-03 and 40-21-03.1 NDCC

**1.0104 City Fines and Penalties Limited**

The provisions of North Dakota law shall be and are hereby incorporated by

reference in this ordinance for any violations of any ordinance, resolution, or regulation of the City deemed offenses.

The provisions of North Dakota law shall be and is hereby incorporated by reference in this ordinance for those violations of any ordinance resolution or regulation of the City deemed infractions.

This section shall not be construed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provided by North Dakota law for the violation of a city ordinance, nor shall this section limit the use of deferred or suspended sentences under North Dakota law or any other legal sentence.

Source: Sections 40-05-06 and 12.1-32-01 (7) NDCC

## **ARTICLE 2 - GOVERNING BODY - CITY COUNCIL**

### **1.0201 Regular Meetings**

The Medora City Council shall meet regularly at the City Hall on the first Tuesday of each month at the hour of 7:00 p.m. unless some other time and place shall be specifically fixed by the Council. If a regular meeting falls on a holiday, the meeting must be held on the next business day with the same effect as if conducted on the day appointed. Council shall meet, in addition thereto, as often as required by North Dakota law.

Source: Section 40-08-10 NDCC

### **1.0202 Special Meetings**

Special meetings may be called at any time by the Mayor, or any two members of the governing body, to consider matters mentioned in the call of such meetings. Written notice of any special meeting shall be given to each member of the governing body at least three hours before the time of the meeting, and a notice of the meeting with the agenda shall be posted in the U. S. Post Office.

Source: Section 40-08-10 NDCC

### **1.0203 Salaries**

The salary of the mayor of the governing body of the City of Medora and the salaries of all other members of the governing body of the City of Medora shall be set by resolution of the governing body of the City of Medora in accordance of North Dakota law.

Source: Section 40-08-07 NDCC

**1.0204 Quorum**

A majority of the members of the governing body of the municipality shall constitute a quorum to do business but a smaller number may adjourn from time to time. The governing body may compel the attendance of absentees under such penalties as may be prescribed by ordinance, and may employ the police of the municipality for that purpose.

Source: Section 40-06-03 NDCC

**1.0205 Reconsidering or Rescinding Votes at Special Meeting**

No vote of the governing body of a municipality shall be reconsidered or rescinded at a special meeting unless there is present at such special meeting as large a number of members as were present when such vote was taken.

Source: Section 40-06-04 NDCC

**1.0206 Rules and Order of Business**

Rules and order of business for the parliamentary government of the governing body shall be governed by Robert's Rules of Order.

Source: Section 40-06-05 NDCC

**ARTICLE 3 - ELECTIVE OFFICERS**

**1.0301 City Council - Who Constitutes**

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

Source: Sections 40-08-01, 40-08-03, and 40-06-09 NDCC

**1.0302 Qualifications and Term of Office of Council Members**

Council members shall hold office for four years and until their successors are elected and qualified. Terms of council members shall be arranged so that only one-half of the council members in any city are elected in any one election. A Council member shall be a qualified elector of the City. No person in default to the municipality shall be eligible to any office.

Source: Sections 40-08-05 and 40-13-01 NDCC

**1.0303 Mayor - Qualifications - Term**

The chief executive officer of the city is the Mayor. He or she shall be a qualified elector within the city. The Mayor shall hold office for four years and until a successor is elected and qualified.

Source: Sections 40-08-14 and 40-13-01 NDCC

**1.0304 When President and Vice-President of a Council are Elected**

At the organization meeting in each even numbered year, the members of the City Council shall proceed to elect from their number a President and a Vice-President who shall hold their respective offices until their successors are elected at the organization meeting following the next biennial election.

Source: Section 40-08-11 NDCC

**1.0305 Vacancies on Council or in Office of Mayor - How Filled**

If a vacancy occurs in a City Council office by death, resignation, or otherwise, the City Council may call a special city election to fill the vacancy for the unexpired term, or may, after fifteen days of the date of the vacancy appoint a person to fill such vacancy until the next city election, at which election the unexpired term must be filled. Upon petition of five percent of the qualified electors, as determined by the total number of votes cast in the last general election, the Council shall call a special election to fill the vacancy occurring more than six months before the next city election, if the petition has been submitted within fifteen days and before 4:00 p.m. of the fifteenth day of the date of the vacancy or of the vacancy being filled by appointment. If the petition is mailed it must be in the possession of the Council or its representative before 4:00 p.m. on the 15th day after the vacancy occurs or after the vacancy was filled by appointment.

Source: Section 40-08-08 NDCC

If a vacancy occurs in the office of Mayor, the City Council may call a special City election to fill such vacancy for the unexpired term or may, after 15 days from the date of such vacancy, elect one of its members to act as Mayor. The member so elected shall possess all the rights and powers of the Mayor until the next election and until a Mayor is elected and qualified. Upon petition of five percent of the qualified electors as determined by the total number of votes cast in the city in the last general election, the Council shall call a special election to fill a vacancy occurring more than six months prior to the next city election, provided such petition is submitted within 15 days of the date of such vacancy. During the interim between the date when a vacancy occurs in the office of Mayor and election and qualification of a successor, the President of the City Council shall be the acting Mayor.

Source: Section 40-08-16 NDCC

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

During the absence of the Mayor from the City or during a temporary disability, the President of the City Council shall be the acting Mayor and presiding officer and shall possess all the powers of the Mayor. In the absence or disability of the Mayor and President of the City Council, the Vice-President of the City Council shall be the acting Mayor and presiding officer.

Source: Sections 40-08-13 and 40-08-17 NDCC

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

The Mayor shall preside at all meetings of the City Council, but shall not vote except in case of a tie, when the deciding vote shall be cast.

Source: Section 40-08-18 NDCC

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

The Mayor may remove any officer he or she appointed whenever he or she is of the opinion that the interests of the City demands such removal. The Mayor shall report the reasons for such removal to the Council at its next regular meeting.

Source: Section 40-08-19 NDCC

**1.0309                      Mayor to Perform Duties Prescribed by Law - Enforce Laws and Ordinances**

The Mayor shall perform all duties prescribed by law or by the City Ordinances, and shall see that the laws and ordinances are faithfully executed.

Source: Section 40-08-22 NDCC

**1.0310                      Inspection of Books, Records, and Papers of City by Mayor**

The Mayor or Council person may, at any time, examine and inspect the books,

records, and papers of any agent, employee or officer of the City.

Source: Section 40-08-23 NDCC

**1.0311 Ordinance or Resolution Signed or Vetoed by Mayor**

The Mayor shall sign or veto each ordinance or resolution passed by the Council.

Source: Section 40-08-24 NDCC

**1.0312 Message to Council**

The Mayor annually and from time to time shall give the Council information relative to the affairs of the City and shall recommend for its consideration such measures as he or she may deem expedient.

Source: Section 40-08-25 NDCC

**1.0313 Mayor Shall Call on Inhabitants to Aid in Enforcing Ordinances**

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

Source: Section 40-08-26 NDCC

**1.0314 Police Chief and Police Officers Appointed by Mayor**

The Mayor may appoint any number of police officers which the Mayor and the City Council may deem necessary to preserve the peace of the City, and one of the number shall be appointed as Chief of Police. Such appointment shall be subject to the approval of the Council.

Source: Section 40-08-27 NDCC

**1.0315 Mayor May Administer Oaths**

The Mayor or Auditor of this City may administer oaths and affirmations.

Source: Section 40-08-28 NDCC

**1.0316 Ordinances and resolutions adopted in council cities - Mayor's veto power - Reconsideration after veto.**

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

Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Severability. In the event any section of this Ordinance is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

Effective Date This Ordinance shall be in full force and effect from and after publication.

## **ARTICLE 4 - ELECTIVE OFFICERS OTHER THAN GOVERNING BODY**

### **1.0401                      Municipal Judge**

**There may be a municipal judge who shall perform all the duties prescribed by law and the Ordinances of this City. He or she shall receive such salary as the City shall allow for full compensation for all services rendered.**

The municipal judge may be appointed in the event the City shall determine that a District Judge shall act as municipal judge upon assignment of the presiding judge of the judicial district for Billings County. Otherwise the municipal judge shall be elected each four year period.

Source: Sections 40-14-01, 40-18-01 and 40-18-06 NDCC

**1.0402 Report to Medora City Council**

At the end of each month, the municipal judge shall make and file with the city auditor a written report under oath showing an account of all fees, fines, costs, forfeitures, and any other monetary consideration collected by the Court during the preceding month and showing the actions in which the fees were collected. The municipal court shall pay the amount of fees, fines, costs, forfeitures, and any other monetary consideration collection to the City Treasury at the end of each month. The judge's salary may not be paid until the judge has complied with this section. The City may alter this obligation by contract with appropriate authority to administer the Municipal Court system.

Source: Section 40-18-06 NDCC

**1.0403 Contents of Report**

Such report shall contain the names of the parties to such action or proceeding, a statement of all orders made, whether the defendants be committed, fined or released from custody, the judgment, the extent thereof, the costs, the amount of costs and fine paid, if any, with the disposition thereof, together with an itemized account of any fees of all officers and witnesses and the names of each, the name of each person making the complaint, and the nature and date thereof.

Source: Section 40-18-06 NDCC

**1.0404 Receipt to Accompany Report**

This report will be accompanied by the duplicate receipt or receipts of the City Auditor for the total amount of the fees and money so collected on behalf of the City.

Source: Section 40-18-06 NDCC

**1.0405 Duties of Municipal Judge**

Additional duties of the municipal judge shall be as provided by the provisions of North Dakota law.

Source: Chapter 40-18 NDCC

**ARTICLE 5 - APPOINTIVE OFFICERS**

**1.0501 Appointive Officers in Council Cities - Appointment**

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

- a) City Auditor;
- b) City Assessor;
- c) City Attorney;
- d) City Engineer; and
- e) Such other officers as the City Council deems necessary and expedient.

The City Assessor shall be appointed at the first meeting of the City Council in September of each odd numbered year.

The City Council by a majority vote may dispense with any appointive office and provide that the duties of that office be performed by others designated by the City Council.

Source: Section 40-14-04 NDCC

**1.0502 Term of Appointive Officers**

The term of all appointive officers of the City operating under the Council form of government commences on the 1st day of July succeeding their appointment unless otherwise provided by ordinance, and the officers shall hold their respective offices for two years, and until their successors are appointed and qualified.

Source: Section 40-14-05 NDCC

**1.0503 Officers Commissioned by Warrant - City Auditor to Receive Certificate of Appointment**

All officers elected or appointed, except the City Auditor, Council Members, and Mayor, must be duly noted in the minute book of the City Council.

Source: Section 40-14-06 NDCC

**1.0504 Removal**

Appointive officers may be removed and any vacancy may be filled in the manner provided by law. "Acting Officers" may be removed at any time by the governing body.

An acting officer shall serve at the pleasure of the governing body.

Source: Section 40-08-19 NDCC

### **1.0505                    General Duties of City Auditor**

The provisions of North Dakota law as it refers to the duties of the City Auditor shall be and are hereby incorporated by reference in this ordinance.

It shall be the duty of the City Auditor to issue the calls for all special meetings of the City Council and when requested to do so by the Mayor or any two members of the City Council. The Auditor shall also keep a full and complete record of all meetings of the City Council and shall keep a book to be styled the "Ordinance Book" and shall record therein all ordinances of the City. The Auditor shall also keep a book to be styled the "Special Assessment Book" in which shall be kept all records of special assessments. All such books shall have full and complete indexes of the contents thereof. The Auditor shall report to the City Council at the end of every month a list of all warrants, interest coupons, bonds, or other evidence of indebtedness which may have been redeemed or paid by the Auditor during the month and a copy of the receipt therefor shall be given to the Council. The Auditor shall further handle all correspondence, permits, and licenses and shall do and perform each, every and all duties and things prescribed for the office of Auditor by the law of this state or applicable federal law or by an ordinance, resolution, or proper instruction of the City Council.

Source: Chapter 40-16 NDCC

### **1.0506                    General Duties of City Attorney**

The provisions of Sections 40-20-01 and 40-20-02 NDCC and all subsequent amendments thereto shall be and are hereby incorporated by reference in this ordinance.

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; when requested the City Attorney shall furnish written opinions upon the subject submitted by the City Council or any other department. It shall also be the duty of the City Attorney 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 each and every and all duties and things prescribed to be done by the City Attorney, either by statutes of the state or by an ordinance, resolution or proper instruction of the City Council.

Source: Sections 40-20-01 and 40-20-02 NDCC

### **1.0507                    General Duties of Other Appointive Officers**

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

Source: Chapters 40-19 and 40-20 NDCC

## **ARTICLE 6 - SPECIAL PROVISIONS REGARDING CITY OFFICERS**

### **1.0601 Bonds of Municipal Officers and Employees**

The following officers and employees of the City of Medora shall be bonded in such sums as the City Council shall approve by resolution:

City Auditor  
Such other officers as the governing body may direct.

Said officers or employees shall be bonded in accordance with the provisions of North Dakota law.

Source: Section 40-13-02 NDCC

### **1.0602 Oaths of Municipal Officers**

Every person appointed to any municipal office, before entering upon the discharge of the duties thereof, shall take and subscribe the oath of office prescribed for civil officers and, except in the case of the treasurer and auditor, shall file the same with the City Auditor within 10 days after notice of such election or appointment has been given. The oath of the municipal treasurer and of the auditor shall be filed in the office of the County Auditor. In addition, each council member shall take an oath that he or she is not under any direct or indirect obligation to appoint or elect any persons to the office of police officer, fire fighter, or any other office, position or appointment under the city government.

Source: Sections 40-13-03 and 44-01-05 NDCC

### **1.0603 Salaries of Officers Fixed by Ordinance - Diminution During Term Prohibited**

Any officer or employee of a municipality shall receive the salary, fees, or other compensation fixed by ordinance or resolution, and after having been once fixed, the same shall not be diminished to take effect during the term for which the officer was elected or appointed.

Source: Section 40-13-04 NDCC

### **1.0604 Salaries of City Officials and Appointive Officers**

Salaries of City Officials and Appointive Officers, except as otherwise provided by law, shall be in such sums and amounts as may be, by resolution of the governing body,

fixed from time to time.

**1.0605                      Meals and Lodging - Amount Allowed**

No elective or appointive officer, employee, representative, or agent of this City, may willfully make claim upon, or willfully receive, any public funds for traveling expenses, while engaged upon public business, in an amount in excess of that allowed by law for such travel.

Each elective or appointive officer, employee, representative, or agent of this City, or of any of its subdivisions, boards, or commissions may make claim for meals and lodging while engaged in the discharge of a public duty and shall, upon approval of such claim, be paid an allowance for meals and lodging while engaged within this State for the discharge for a public duty away from his or her normal working and living residence for all or any part of any quarter of a day at the rate specified by state law.

Such persons engaged in travel outside state boundaries shall receive such expenses for meals and actual lodging expenses allowed by state law.

Provisions of North Dakota law shall be and are hereby incorporated by reference in this ordinance.

It is the intent of this section to allow reimbursement for mileage and other necessary expenses at the same rate and under the same conditions as provided for state officials and its employees. All travel expenses shall be evidenced by a voucher as approved by the City Council.

Source: Sections 44-08-03 through 44-08-05.1 NDCC

**1.0606                      Personal Interest in Contract by Public Officer**

No municipal officer shall refuse or fail to disclose to the governing board of which he or she is a member, any personal interest, direct or indirect, in any contract requiring the expenditure of municipal funds. Any person who shall violate any provision of this section shall be guilty of an infraction and shall, in addition, be subject to removal from office.

Source: Section 40-13-05.1 NDCC

**1.0607                      Retiring Officer to Turn Over Books**

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

offense subject to the penalty described in this chapter.

Source: Section 40-13-10 NDCC

### **1.0608                      Administrative Policy and Procedure**

Perform Duties. Each officer shall:

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

Source: Section 40-13-11 NDCC

### **1.0609                      Obstructing a Public Official - Prohibited**

Every person who willfully delays or obstructs a public officer in the discharge or attempt to discharge any duty of his office shall be guilty of an infraction. Upon conviction, for a violation of this section, such person shall be fined as required by law.

Source: Sections 40-05-01 (33), 40-06-07, and 12.1-08-01 NDCC

### **1.0610                      Consanguinity/Affinity**

No person who is related by marriage or birth to the second degree to a City Council

member or the Mayor shall be appointed to or employed by any city position unless by unanimous vote of the Council. The same restrictions shall apply to contracts with the city.

**Medora further adopts by reference NDCC 40-08-09. Restrictions on members of council.**

1. Except as provided in subsection 2 of this section, no member of the city council shall:
  - a. Be eligible to any other office the salary of which is payable out of the city treasury;
  - b. Hold any other office under the city government; or
  - c. Hold a position of remuneration in the employment of the city.
2. A member of the city council may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls.
3. A member of the city council in a city having a population of five hundred or fewer may hold a position of remuneration in the employment of the city if no other qualified individual is available to hold the position of remuneration at an equal cost to the city. The decision to employ the member of the city council must receive the unanimous approval of the other members of the council, and the approval must be documented in the official minutes of the council. This subsection does not apply to appointed officer positions under section 40-14-04.

**1.0611                      Compensation and Leave Time**

**Section 1: OVERTIME**

Overtime compensation is paid to non-exempt employees in accordance with federal and state wage and hour restrictions. Overtime is payable for all hours worked over 40 per week at a rate of one and one-half times the non-exempt employee's regular hour rate. Time off on personal time, holidays, or any leave of absence will not be considered hours worked when calculating overtime. In addition, vacation time does not constitute hours worked.

All overtime work performed by an hourly employee must receive the prior authorization of the Council member holding the department portfolio. Overtime worked without prior authorization from the Council member holding the department portfolio may result in disciplinary action. In the event of extreme emergencies, overtime may be worked without prior authorization, but such overtime hours and the reasons for overtime must be provided to the Council member holding the department portfolio within 48 hours of such emergency. Failure to report such overtime may result in disciplinary action.

**Section 2: COMPENSATION TIME**

All employees who are non-exempt in accordance with federal and state wage and hour restrictions will be provided the opportunity once each calendar year to choose compensation time in lieu of overtime pay. This opportunity will be provided on or before January 1<sup>st</sup> of each year. Compensation time is granted at the rate of one and one-half

hours for all hours worked by the employee over 40 hours per week. Employees may accrue a maximum of 40 hours of compensation time. Any compensation time earned in excess of 40 hours will be paid to the employee with the next payroll check. Further, any compensation time must be used within (90) days after such time is accrued. The compensation time book is to reflect the date when such compensation time was earned and that is the official date from which the ninety (90) days starts to run. Any compensation time that is utilized will be paid on the next payroll check. Any compensation time paid in cash will be removed from the employee's book accumulation of said time.

### Section 3: HOLIDAYS

The City of Medora observes the following holidays:

New Year's Day	Independence Day	Martin Luther King Day
Labor Day	President's Day	Veteran's Day
Good Friday	Thanksgiving Day	Memorial Day
Christmas Day		

A holiday occurring on Saturday or Sunday is observed the preceding Friday or succeeding Monday. Holidays worked may be substituted for equal time taken on another day. In addition, city offices shall close at noon in Christmas Eve Day (office closure, not a holiday). Employees required to work holidays will also be compensated at a rate of two times the regular rate plus employees will receive an addition of vacation hours for time worked on holidays.

### FMLA Policy

The City of Medora will comply with the Family and Medical Leave Act.

Eligible employees may take up to 12 weeks of unpaid family or medical leave within any 12 month period and be restored to the same or an equivalent position upon the employee's return from the leave.

An employee is eligible for FMLA leave if the employee: (1) has worked for the city for at least 12 months; and (2) has worked for the City for at least 1,250 hours in the last 12 calendar months.

1. Reasons for Leave: Employees may take FMLA leave for any of the following reasons: birth or adoption of a child; placement of a child into adoption or foster care; serious health condition of the employee's spouse, parent or child; or for the employee's own serious health condition.

A "serious health condition" is one that makes the employee unable to perform the essential functions of the employee's job. It is a condition that requires inpatient care at a hospital, hospice or residential care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care or treatment by a licensed health care provider. This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first

visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

2. **Duration of Scheduled Leave:** The employee may request up to 12 weeks leave consecutively or as a reduced schedule (otherwise known as “intermittent leave”). While on intermittent leave, the employee can work some hours in a week and apply other hours to the cumulative total of 12 weeks FMLA leave. For the birth, adoption or foster care of a child, the City and the employee must mutually agree to a work schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.
3. **Leave Must be Requested in Writing:** If leave is foreseeable, 30 days prior written notice is required. If the leave is not foreseeable, the employee must request the leave as soon as reasonably practical. If the employee does not provide notice the leave may be delayed. Employees planning medical treatment should consult with the City regarding their schedule as soon as possible.
4. **Medical Certification:** The City may require medical certification from the employee’s health care provider regarding any serious medical condition.
5. **Use of Paid and Unpaid Leave:** An employee who is taking FMLA leave because of the employee’s own serious health condition or the serious health condition of a family member must use all paid vacation, personal or sick leave prior to being eligible for unpaid leave. Sick leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy. An employee who is taking leave for the adoption or foster care of a child must use all paid vacation, personal or family leave prior to being eligible for unpaid leave.
6. **Health Benefits:** While an employee is on leave the City will continue the employee’s health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. The employee will be required to pay to the City any part or portion of the health care premiums that the City does not pay.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or employee’s family member or a circumstance beyond the employee’s control, the company will require the employee to reimburse the company the amount it paid for the employee’s health insurance premium during the leave period.

7. **Other Benefits:** Other employment benefits will not accrue during FMLA leave; but all accumulated benefits will remain intact. If the employee contributes to a

life insurance or disability plan through payroll deductions, the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums or the City may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the City may discontinue coverage during the leave. If the City maintains coverage, the City may recover the costs incurred for paying for the employee's share of any premiums whether or not the employee returns to work.

8. Return to Work: Employees intending to return to work must communicate their intentions to the City. Failure to communicate an intention to return to work, or failure to return at the end of leave may be interpreted as a voluntary resignation by the employee.

## **Article 7-PURCHASING AND DISPOSITION OF PROPERTY**

### **1.0701 Accounts Against City to be in Writing and Verified**

Accounts, claims and demands against the City of Medora, North Dakota, for any property or services for which said city shall be liable, shall be reduced to writing and itemized, and the claimant shall verify the same in the manner hereinafter set forth.

Source: Sections 40-11-04 and 40-05-01 (52) NDCC

### **1.0702 Further Verification May be Required**

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

Source: Chapter 40-11 and Sections 40-05-01 and 40-05-02 NDCC

### **1.0703 Ordinance for Sale, Lease or Disposal of Property**

When property is valued by the City of Medora to be of a value of more than \$2,500.00, the property shall be sold by public sale upon notice which shall contain a

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

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

The provisions of NDCC 44-04-18.4 are hereby adopted and shall govern the confidentiality of trade secrets, proprietary, commercial, financial, and research information, including but not limited to:

Unless made confidential under subsection 1 or made exempt under subsection 5:

- a. Bids received by a public entity in response to an invitation for bids by the public entity are exempt until all of the bids have been received and opened by the public entity.
- b. Proposals received by a public entity in response to a request for proposals are exempt records until a notice of intent to award is issued.
- c. Records included with any bid or proposal naming and generally describing the entity submitting the proposal are open.

## **ARTICLE 8 - MUNICIPAL ELECTIONS**

### **1.0801 Elections in Council Cities - Polling Places - Polls Open - Notice - Judges, Clerk and Inspectors**

The provisions of North Dakota law shall be and are hereby incorporated by reference in this ordinance.

Biennial municipal elections in cities operating under the Council form of government must be held on the second Tuesday in June in each even-numbered year at such place or places as the City Council designates. The City Council shall designate one polling place only. Polls must be opened and closed as provided by State law for the opening and closing of polls at primary, general, and special elections. Ten days' notice of the time and place of holding each election and of the offices to be filled at the election must be given by the City Auditor by publication in one newspaper. Publication shall be had in the official newspaper of the city as provided by North Dakota law. For all general city elections and special city elections the City Council shall appoint one inspector at least

ten (10) days before the election is held and two judges and two clerks of elections at least ten days before the election is held, except the City Council shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, and the apportioning for general city elections of election expenses. For any special election in which seventy-five or fewer votes were cast in the last city election, the City Council may appoint one inspector, one clerk and one judge.

Source: Section 40-21-03 NDCC

### **1.0802                      Designation of Polling Places for Municipal Elections**

The City Council, at the time of calling any general or special municipal election, or prior to the time of registration for said election, if said registration is required by law, shall by resolution, designate such voting precincts and polling places for said election as it may deem necessary for the conduct of the same, and shall, in giving notice of said election, designate such voting precincts and polling places.

Source: Section 40-21-03.1 NDCC

### **1.0803                      Compensation of Inspectors, Judges and Clerks at Municipal Elections**

The provisions of North Dakota law shall be and are hereby incorporated by reference in this ordinance.

Each inspector, judge or clerk of any regular or special municipal election shall receive compensation as determined for election officials in Section 16.1-05-05 NDCC. The amounts determined to be due election officials at municipal elections shall be paid from the funds of the municipality holding the election. In the event a special municipal election is held on the same date as a statewide, district-wide or countywide election, and if the same election officials perform services for both elections, the city shall not be required to pay the elections officials, except for any extra officials necessary for such special municipal election.

Source: Section 40-21-05 NDCC

### **1.0804                      Reference to Party Ballot or Affiliation in Petition of Candidate for Municipal Office - Prohibited - Principles Stated**

No reference shall be made to a party ballot nor to the party affiliation of a candidate in a petition to be filed by or in behalf of a candidate for nomination to a public office in this city. Such candidate may state or have stated after his or her name in any such petition, in not more than twenty words, any particular principle or principles of local administrative policy or policies he or she stands for and seeks election to promote.



**1.0808 County Ballots - Returns - Canvass of Returns by Governing Body of Municipality**

The provisions of North Dakota law shall be and are hereby incorporated by reference in this ordinance.

The ballots cast in a municipal election shall be counted and the returns of the election prepared by the election board immediately after the closing of the polls. The ballots and returns of the election shall be returned to the City Auditor under seal within two days and before four o'clock p.m. on the second day after the election. Thereafter, the governing body of the municipality shall canvass the returns and declare the result of the election and cause a statement thereof to be entered in its books of minutes.

Source: Section 40-21-12 NDCC

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

The provisions of North Dakota law shall be and are hereby incorporated by reference in this ordinance.

With the exception of the City's voter registration law, the manner of conducting, voting at, keeping poll lists, and canvassing votes at municipal elections and contests of the results of such elections shall be governed, as nearly as possible and except as otherwise provided in this chapter, by the laws of this state applicable to elections and contests in the case of county officers. Absent voters' ballots must be available in municipal elections in accordance with North Dakota law.

Source: Section 40-21-13 and Chapter 16.1-07 NDCC

**1.0810 City Auditor to Notify of Election or Appointments**

The City Auditor, within five days after the result of an election is declared or the appointment of an officer is made within the municipality, shall notify each person elected or appointed to municipal office of his or her election or appointment. Within the same period of time, the City Auditor shall also notify the State Supreme Court of the election or the appointment of any municipal judge or alternate judge.

Source: Section 40-21-14 NDCC

**1.0811 New Election Upon Failure to Elect**

The provisions of North Dakota law shall be and are hereby incorporated by reference in this ordinance.

If there is a failure to elect an officer required to be elected, the City Council may

order a new election or appoint an officer by majority vote of the City Council.

Source: Section 40-21-15 NDCC

**1.0812 Special Elections Conducted in Same Manner as General Elections**

The provisions of North Dakota law shall be and are hereby incorporated by reference in this ordinance.

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

Source: Section 40-21-16 NDCC

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

The provisions of North Dakota law shall be and are hereby incorporated by reference in this ordinance.

The person having the highest number of votes for any municipal office shall be declared elected to such office. In case of a tie vote in the election of any municipal officer, the choice shall be determined by a coin flip in the presence of the City Council and in such manner as it shall direct.

Source: Section 40-21-17 NDCC

**Section 1.0814 Voter Identification and Residency Requirements** is hereby enacted to provide:

The provisions of North Dakota law shall be and are hereby incorporated by reference in this ordinance.

An elector seeking to vote in an election must meet the identification requirements specified in section 16.1-01-04.1 NDCC. The residence requirements and rules for determining residence of an elector for voting purposes must be those specified in section 16.1-01-04.2. Amendments to election offenses relating to unlawful voting are upgraded to Class C felonies as specified in 16.01-12 NDCC. The application format and requirements for absentee and mail ballots shall be as specified in 16.1-07-06 NDCC.

**ARTICLE 9 - VOTER REGISTRATION**

**1.0901                    Enactment**

All voters claiming residency in the City of Medora must apply for registration as a voter in the City of Medora and swear an oath by signing the following statement:

I, \_\_\_\_\_, do solemnly swear and affirm that I am a citizen of the United States and that on the date of the next City election I shall have attained the age of 18 years, that I am a resident of the City of Medora, North Dakota, and that I have resided in the City for at least 30 days before the next election. I further swear and affirm that my present address is: (address must be physical property number and street location) in the City of Medora, North Dakota, and this address is my sole legal place of residence and that I am claiming no other place of residence.

Source:            Section 40-21-10 NDCC

**1.0902                    City Elections - Registration Required**

Only registered voters will be allowed to vote in City elections.

Source:            Section 40-21-10 NDCC

**1.0903                    Voter Residency**

"Residence" is defined as a physical property number and street location in the City of Medora and it must be sworn and attested that this is the residence of the person claiming residency in the City of Medora.

Source:            Section 40-21-10 NDCC

**1.0904                    Registration - Application for**

Upon receipt of the application, the City Auditor shall determine if the application is complete. If it is determined that the application is complete, the applicant shall be deemed registered as of the date of the application. If it is determined that the application is not complete, the City Auditor shall notify the applicant stating what additional information is required. The applicant shall be deemed registered as of the date of application when the additional information is provided at any time prior to the actual voting.

Source:            Section 40-21-10 NDCC

**1.0905                      Registration - Inactive - Withdrawal**

The City Auditor shall mail a notice within 60 days after any City-wide election to all voters who failed to vote. The notice shall contain on the outside thereof the statement "Do Not Forward. Return to Sender" in accordance with the United States Postal Service Regulations. The notice shall be mailed so as to require return to the City Auditor of those notices sent to voters who no longer reside at the address at which they are registered.

For all voters, whose notice is returned by the United States Postal Service as not deliverable at the voter's registered address, the City Auditor shall mark that voter's registration sheet by writing or stamping thereon the words "Inactive - Notice Returned ". (Insert date notice returned)

Source:            Section 40-21-10 NDCC

**1.0906                      Registration - Purging of**

For all voters whose registration sheets have been marked "Inactive" and who fail to make current their registration or to vote in the next City-wide election, the City Auditor shall mark that voter's registration sheet by writing or stamping thereon the words "Purged -Election Date: \_\_\_\_\_" (Insert date of election) and removing the sheet from the registration book. All registration sheets so removed shall be preserved for a period of two years.

Source:            Section 40-21-10 NDCC

**1.0907                      Registration - Reactivation**

Any voter who appears at the office of the City Auditor or the polls to vote in any election preceding and subsequent to his or her registration sheet having been marked "Inactive" shall be allowed to correct his or her registration information and to vote if he or she takes the oath provided in Section 1.0901. Within 30 days following the election in which the voter voted, pursuant to this subdivision, or following the updating of registration information at the office of the City Auditor, the City Auditor shall cause the "Inactive" statement to be deleted from or marked off the registration sheet for each such voter, and the voter's registration sheet shall remain in the registration book of the City.

Source:            Section 40-21-10 NDCC

**1.0908                      Review Board - Duties of**

At least 45 days prior to a City election, the City Council shall appoint a board consisting of three residents from the City of Medora to serve as a Review Board. After the last day to register to vote has passed, the Board shall meet within five (5) days and review voter affidavits and the list of registered voters. Any voter which the Review Board determines is not a resident of the City of Medora shall not be allowed to vote. Any voter

which the Review Board has determined is not a resident shall be notified within three (3) days after the meeting of the Review Board that they will not be allowed to vote in the City election.

Source: Section 40-21-10 NDCC

### **1.0909 Appeal Rights**

Within three (3) days after notice that the voter will not be allowed to vote, the voter may request a hearing before the City Council and have the City Council determine the issue as to whether the voter is or is not, in fact, a resident of the City of Medora.

Source: Section 40-21-10 NDCC

### **1.0910 Registration Deadline**

Qualified electors shall be permitted to register up to 52 days before the City election for which registration is required. Persons failing to register 52 days before the election shall not be allowed to vote.

Source: Section 40-21-10 NDCC

Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Severability. In the event any section of this Ordinance is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

### **1.0911 Severability**

If any provision of this Article, or application thereof, to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application and, to this end, the purposes of this Article are declared to be severable.

Source: Section 40-21-10 NDCC

### **1.0912 Penalty**

It shall be an offense for any person to register as a voter, pursuant to this ordinance, who is not a resident of the City of Medora, punishable as a Class B misdemeanor.

Source: Section 40-21-10 NDCC

## **ARTICLE 10 - CITY LODGING TAX**

1.1001 The City of Medora imposes a Lodging Tax of two per cent (2%). This tax is upon the gross receipts of retailers leasing or renting hotel, motel, or tourist court accommodations within the City for periods of less than 30 consecutive calendar days or one month. Fund shall be administered in accordance with North Dakota law.

Penalty: If a person fails to file a return or corrected return or to pay any tax within the time required or if, upon audit, is found to owe additional tax, such person shall be subject to a penalty of five per cent (5%) of the amount of tax due or \$5.00 whichever is greater, plus interest of one per cent (1%) of such tax for each month or delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due. These penalties may be waived by the Tax Commission of the State of North Dakota or amended by law.

Source: Section 40-57.3-01.1 NDCC

## **ARTICLE 11 - SALES AND USE TAX**

### **Section 1.1101 Definitions and Powers shall be amended to provide:**

All terms defined in chapter 57-39.2 NDCC, and chapter 57-40.2 NDCC, and all provisions of NDCC 40-05.1 including all future amendments, are adopted by reference.

Among other powers, the City of Medora, by and through its Home Rule Charter, shall have the powers:

To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the city at the same rate unless otherwise provided by law. The authority to levy taxes under this subsection does not include authority to impose income taxes.

To levy and collect excises, fees, charges, franchise and license taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a city lodging tax, and a city restaurant tax.

Sales and use taxes and gross receipts taxes levied under this section:

- a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of manufactured homes or mobile homes.
- b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner

or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.

c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.

d. Must be subject to collection by the tax commissioner under an agreement under section 57- 01-02.1, with the exception of a city lodging or city restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

### **1.1102 Sales Tax Imposed**

Except as otherwise provided in this article, a tax of two percent is imposed upon the gross receipts of retailers from all retail sales within the corporate limits of the city of Medora, North Dakota, of the following:

- (a) Tangible personal property, consisting of goods, wares, or merchandise.
- (b) The furnishing or service of gas, communication services, or steam.
- (b) Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin.
- (d) Magazines or other periodicals.
- (e) The leasing or renting of a hotel or motel room or tourist accommodations subject to North Dakota State Sales Tax.
- (f) The leasing or renting of tangible personal property, the transfer of title to which has not been subjected to a retail sales tax under this chapter.
- (g) Sales of alcoholic beverages and tobacco products as defined in section 57-39.2-03.2 NDCC. 24
- (h) Admission tickets sold shall be taxed even though the event is held outside the city limits.

### **1.1103 Use Tax Imposed**

Except as otherwise provided in this chapter, a use tax of two percent is imposed on the storage, use or consumption, in the city on:

- (a) The purchase price of tangible personal property purchased at retail for storage, use, or consumption within the city
- (b) The fair-market value of tangible personal property which was not originally purchased for storage, use or consumption in the city, at the time which it is brought into this city.
- (c) Alcoholic beverages and tobacco products which are stored, used or consumed in this city, as provided in section 57-39.2-03.2 NDCC.
- (d) The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in section 57-40.2-03.3 NDCC.

### **1.1104 Exemptions**

All sales, storage, use, or consumption of tangible personal property which are exempt from imposition and computation of the sales or use tax of the state are specifically exempt from the provisions of this article.

### **1.1105 Collection and Administration**

The tax commissioner and the city auditor for the city shall have the powers enumerated in the provisions of chapter 57-39.2 NDCC and chapter 57-40.2 NDCC relating to the collection and administration of the state sales and use tax, including all administrative rules adopted by the tax commissioner. The tax commissioner is authorized to establish rate tables integrating the tax imposed by this chapter with other state, county and city taxes.

### **1.1106 Contract with State Tax Commissioner**

The city auditor is hereby authorized to contract with the tax commissioner for the administration and collection of taxes imposed by this chapter. The city auditor has all powers granted the commissioner and in the absence of a valid contract with the commissioner or failure of the commissioner to perform the delegated duties, shall perform these duties in place of the commissioner.



6. Theodore Roosevelt Medora Foundation shall provide the City of Medora with an accounting demonstrating the use of the donated funds for the construction of the golf course.

7. Thereafter proceeds of the ½ of 1 percent sale and use tax, less administrative costs shall be used to fund paying off State Historical Society bonds and thereafter used for the City's capital improvements and reserve fund as directed by the Council.

Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Severability. In the event, any section of this Ordinance is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.