



AGENDA
Board of City Commissioners
December 26, 2023 | 6:00 pm CT
City Hall & GoToMeeting | Williston, North Dakota

1. Roll Call of Commissioners and Pledge of Allegiance
2. Consent Agenda
 - A. Reading and Approval of Minutes
 - 1) Regular Meeting – December 12, 2023
 - B. Auditor and Finance
 - 1) Accounts, Claims and Bills – December 8-December 21, 2023
 - 2) Business Licenses
 - 3) 2024 Board of City Commissioners Meeting Dates and Times
 - 4) 2024 Investment Transactions Authority
 - 5) 2024 Official Depositories
 - 6) Authority for Finance Director and Deputy Auditor to make investments transactions for 2024
 - C. Development Services
 - 1) Contractor Licenses
 - D. Engineering
 - 1) Request for a Public Hearing at the January 9, 2023 City Commission Meeting Regarding Water, Sewer and Street Improvement District 24-02
 - E. Authorization to Bid
 - 1) Compactor (Landfill)
3. Public Hearings
4. Bid Openings
5. Ordinances
 - A) Ordinance 1154 – Amendments to Chapter 12 - Code of Municipal Ordinances
6. Petitions, Communications and Remonstrances
7. Report of Commissioners
 - A. President of the Board
 - B. Vice-President of the Board
 - C. Public Works and Library Commissioner
 - D. Fire, Police and Ambulance Commissioner
 - E. Airport, Engineering and Development Services Commissioner
8. Report of Departments
 - A. Administration
 - B. Finance
 - 1) 2024 Alcoholic Beverage License Renewals
 - 2) 2024 Business License Renewals
 - C. Attorney
 - D. Public Works

- 1) Regional Williston WTP Residuals Pond #3 Relining – AE2S Task Order #35
- E. Engineering
- F. Fire Department
- G. Police Department
- H. Development Services
 - 1) New Home Property Tax Exemption – Resolution 23-030
 - 2) New Home Permit Fee Waiver
- I. Economic Development
- J. Airport
- K. Convention and Visitor's Bureau
9. Appointments and Consultations with Officers
10. Unfinished Business
11. New Business
12. Executive Session
13. Adjourn

VIRTUAL MEETING ACCESS INFORMATION

City Commission Meeting
December 26, 2023, 6:00PM (CT)

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/504476117>

You can also dial in using your phone.

Access Code: 504-476-117

United States: [+1 \(872\) 240-3311](tel:+18722403311)

Get the app now and be ready when your first meeting starts:

<https://meet.goto.com/install>



Memo

To: Board of City Commissioners
From: Hercules Cummings, Finance Director
Date: December 26, 2023

Re: Consent Agenda

2A1 Regular Meeting Minutes Dated: December 12, 2023

2B1 Accounts, Claims and Bills
Accounts, claims and bills processed: December 7, 2023– December 21, 2023

2B2 Business Licenses
a. Kum & Go #806 – Beer off sale (Transfer new owners)
b. Kum & Go # 805 – Beer off sale (Transfer new owners)

2B3 City Commission Board Meeting Dates and Times for 2022

The City of Williston Board of Commissioners hold their regular meetings on the 2nd and 4th Tuesday of each month at 6:00pm in the John Kautzman Chamber Room at City Hall. In addition to the regularly scheduled meetings, special meetings may be called when needed. When a special meeting is called, the news media will be notified of the date, time, place, and topics(s) to be discussed. This listing details the specific dates of all 2024 meetings:

January 9 and 23
February 13 and 27
March 12 and 26
April 9 and 23
May 14 and 28
June 11 and 25
July 9 and 23
August 13 and 27
September 10 and 24
October 8 and 22
November 12 and 26
December 10 and 23

2B4 Authority for Finance Director & Deputy Auditor to make Investments Transactions for 2024

The City is required to designate who handles investment transactions for the City. In the past, the Auditor and Deputy Auditor have been designated. Requesting authorization for the Finance Director and Deputy Auditor to be designated to handle investment transactions for the City during 2024.

2B5 Designate Official Depositories for 2024

Request to engage the following institutions as the official depositories for the City of Williston for the year 2024: American State Bank & Trust of Williston, Bank of North Dakota Bismarck, First International Bank & Trust of Williston, First State Bank & Trust of Williston, Gate City Federal Savings Bank Williston, US Bank Williston, Marcus, Barclays, and Western Cooperative Credit Union of Williston.

2B6 Authority for Finance Director & Deputy Auditor to make investments transactions for 2024

Recommendation: Approval of all consent agenda items

Attachments:

a2A1

a2B1

a2B2a_b



DATE: December 26th, 2023
TO: City Commission
FROM: Mark Schneider, Director Development Services
RE: Consent Agenda – Development Services

2C1 Contractor Licenses

Master Mechanical:

1. Dennis O'Brien – Gopher Heating & Sheet Metal Inc.

I recommend approval for all contractor licenses listed.



DATE: December 26, 2023

TO: City Commission

FROM: Kenny Bergstrom, Director of Public Works

RE: Request to Advertise for Bids

2E1 Request to Advertise for Bids

The City of Williston Public Works is seeking to bid the following equipment:

- New Landfill Compactor (Landfill Department)

We are requesting authorization to advertise for this equipment on December 31, 2023, January 7 and January 14, 2024, with bids being opened on January 22, 2024. This compactor was included in the 2024 Budget, with a potential 2025 delivery date.

Attachments

2e1



DATE: December 26, 2023
TO: City Commission
FROM: Taylor D. Olson, City Attorney
RE: 5A Amendments to Chapter 12

Summary of agenda subject:

A committee of individuals including myself, David Peterson, Steven Armstrong, Deputy Chief of Police, Captain Rodney Dickerson, and Captain Steve Gutknecht of the Williston Police Department spent approximately one year working on reviewing Chapter 12 of the City Code of Ordinances.

Chapter 12 has been enacted in various sections throughout the years. Each ordinance has been amended periodically but a full review has not been completed during my 13 years as city attorney.

Many sections of the code have never been amended and numerous sections have not been updated for years, with some stemming back to the 1950s.

This comprehensive review included our group going through the ordinances one by one and reviewing the corresponding North Dakota Century Code provisions to guarantee compliance with NDCC and compliance with various North Dakota Supreme Court cases which limit the parameters of penalty and restriction put in place by criminal ordinances.

Move to adopt the first reading of the proposed ordinance amending Ch. 12 of the Code of Municipal Ordinances for the City of Williston as presented by the City Attorney's Office.

Please contact me if you have any questions. I can review any section with any one on the commission.

/s/ Taylor D. Olson

Taylor D. Olson
Attachments Chapter 12 (clean and marked up)

Ordinance 1154**Chapter 12. Offenses - Miscellaneous****§ 12-1. Conflict with State Law.**

No offense defined in this chapter shall be construed to supersede any offense defined in Title 12.1, or 19 in the North Dakota Century Code or elsewhere in state law. In the event any definition of an offense section of this chapter is in conflict with or contrary to any offense defined in Title 12.1 or elsewhere in state law, as those statutes maybe amended from time to time, the language in conflict with or contrary to state law shall be invalid and the offense containing such language shall be construed to be consistent with the definition of that offense set forth in state law.

§ 12-1.1. Drunkenness.

[Code 1957, § 15.9]

Any person who shall be found in an apparent state of intoxication or drunkenness in any street or public place within the limits of the City may be taken by a police officer to his home, to a local hospital or, whenever such persons constitutes a danger to himself or others, to a jail for purposes of detoxification.

§ 12-2. Physical Obstruction of Government Function.

1. A person is guilty of a class B misdemeanor if he intentionally obstructs, impairs, impedes, hinders, prevents, or perverts the administration of law or other governmental function.
2. This section does not apply to the conduct of a person obstructing arrest of himself, but such conduct is subject to section 12-3. This section does apply to the conduct of a person obstructing arrest of another. Inapplicability under this subsection is a defense.
3. It is a defense to a prosecution under this section that the administration of law or other government function was not lawful, but it is no defense that the defendant mistakenly believed that the administration of law or other government function was not lawful. For the purposes of this subsection, the conduct of a public servant acting in good faith and under color of law in the execution of a warrant or other process for arrest or search and seizure shall be deemed lawful.

Reference: N.D.C.C. § 12.1-08-01 (2021).

§ 12-3. Preventing Arrest or Discharge of Other Duties.

1. A person is guilty of a class B misdemeanor if, with intent to prevent a public servant from effecting an arrest of himself or another for a misdemeanor or infraction, or from discharging any other official duty, he creates a substantial risk of bodily injury to the public servant or to anyone except himself, or employs means justifying or requiring substantial force to overcome resistance to effecting the arrest or the discharge of the duty.
2. It is a defense to a prosecution under this section that the public servant was not acting lawfully, but it is no defense that the defendant mistakenly believed that the public servant was not acting lawfully. A public servant executing a warrant or other process in good faith and under color of law shall be deemed to be acting lawfully.

Reference: N.D.C.C. § 12.1-08-02 (2021).

§ 12-4. False reports to police.

A person is guilty of a class B misdemeanor if that person:

- a. Gives false information or a false report to a law enforcement officer which that person knows to be false, and the information or report may interfere with an investigation or may materially mislead a law enforcement officer; or
- b. Falsely reports to a law enforcement officer or other security official the occurrence of a crime of violence or other incident calling for an emergency response when that person knows that the incident did not occur. "Security official" means a public servant responsible for averting or dealing with emergencies involving public safety.
- c. In an official proceeding, he makes a false statement, whether or not material, under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, if he does not believe the statement to be true.
- d. If, in a governmental matter, he:
 1. Makes a false written statement, when the statement is material and he does not believe it to be true;
 2. Intentionally creates a false impression in a written application for a pecuniary or other benefit, by omitting information necessary to prevent a material statement therein from being misleading;
 3. Submits or invites reliance on any material writing which he knows to be forged, altered, or otherwise lacking in authenticity;
- e. Submits or invites reliance on any sample, specimen, map, boundarymark, or other object which he knows to be false in a material respect; or
- f. Uses a trick, scheme, or device which he knows to be misleading in a material respect.
- g. This section does not apply to information given during the course of an investigation into possible commission of an offense unless the information is given in an official proceeding or the declarant is otherwise under a legal duty to give the information. Inapplicability under this subsection is a defense.
- h. A matter is a "governmental matter" if it is within the jurisdiction of a government office or agency, or of an office, agency, or other establishment in the legislative or the judicial branch of government.

Reference: N.D.C.C. § 12.1-11-02 and 12.1-11-03 (2021).

§ 12-5. Tampering with, Disabling, or Falsely Sounding a Fire Alarm.

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

2. A person may not tamper with or disable fire suppression equipment in a hotel, motel, rooming house, lodging house, or other place of abode or in any other public place so as to endanger person or property.

3. A violation of this section is a class B misdemeanor.

Reference: N.D.C.C. § 12.1-21-09 (2021).

§ 12-6. Assault.

A person is guilty of assault if that person either

- a. Willfully causes bodily injury to another human being; or
- b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury, and the victim is twelve years of age or older; or

This offense does not include injuries to individuals acting in an official capacity under N.D.C.C. § 12.1-17-01(2)(a).

Reference: N.D.C.C. § 12.1-17-01 and 12.1-17-01.1 (2021).

§ 12-7. Criminal Mischief

[Code 1957, § 15.16]

1. A person is guilty of an offense if that person:

- a. Willfully tampers with tangible property of another so as to endanger person or property; or
- b. Willfully damages tangible property of another.

The offense is a class B misdemeanor if the actor causes a pecuniary loss less than two thousand dollars or a pecuniary loss less than two thousand dollars.

Reference N.D.C.C. § 12.1-21-05 (2021).

§ 12-8. Fire or police department property; injuring; hindrance.

[Code 1957, § 15.12]

No person shall, in any manner whatever, intentionally interfere with or injure any property of the fire department or the police department or hinder or delay any apparatus or equipment or vehicle belonging to the fire department or the police department.

§ 12-9. Posting bills, painting signs, etc.

[Code 1957, § 15.26]

It shall be unlawful for any person to post, or cause to be posted, any bills, or paint, write or print, or cause to be painted, written or printed, any signs or devices on any sidewalk, street, bridge, viaduct, pole, tree, post or on any wall, building or structure or other property of another, unless, in the case of private property, the prior consent of the owner thereof has been secured.

Violation of this ordinance shall be an infraction with a fine of up to \$1,000.00.

§ 12-10. Signs, writings, etc., tending to disturb peace.

[Code 1957, § 15.31]

No person shall show or expose in public any writing, sign, drawing, print, caricature, statue or any other object which may incite scandal or has a tendency to disturb the public peace.

§ 12-11. Spitting and littering generally.

[Code 1957, § 15.32]

No person shall spit or expectorate nor throw fruit, fruit parings or skins, nuts or nut shells upon the sidewalks or crossings of any street, avenue, alley or driveway within the corporate limits of the City, nor in or upon the floors, stairs or hallways within or sidewalks leading to or from any public building, theatre, public hall or any taxicab stand, bus depot, airport or railway depot or platform connected therewith or leading thereto whether such public building, theatre, hall or depot belongs to the City or not.

Violation of this ordinance shall be an infraction with a fine of up to \$1,000.00.

§ 12-12. Garbage, glass, debris or rubbish on streets or public property.

[Ord. No. 478, 9-12-1972; Ord. No. 1068, 8-22-2017]

(a) It shall be unlawful for any person to violate any of the following provisions:

- (1) No person shall throw or deposit upon any street or public property any glass bottle, glass, nails, tacks, wire, cans, rubbish, or any other litter. In addition, an individual may not deposit any substance likely to injure any person, animal or vehicle, or throw or deposit debris or rubbish of any kind upon the streets or public property;
- (2) Any person who drops, or permits to be dropped or thrown, or deposited, upon any street or public property any destructive or injurious material shall immediately remove the same or cause it to be removed; and
- (3) Any person moving a wrecked or damaged vehicle shall remove any glass or other injurious substance dropped or falling upon the street or public property from such vehicle.

Violation of this ordinance shall be an infraction with a fine of up to \$1,000.00.

§ 12-13. Throwing filthy matter into water.

[Code 1957, § 11.10]

No person shall throw or leave any vegetables, ashes, offal, dirt, garbage, food matter, liquid waste, filth, or offensive matter whatsoever, solid or liquid, into any pool of water in the City.

Violation of this ordinance shall be an infraction with a fine of up to \$1,000.00.

§ 12-14. Trespass

1. a. An individual is guilty of a class B misdemeanor if, knowing the individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the owner or an individual authorized by the owner or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.

b. Even if the conduct of the owner or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.

c. An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent

offense within a two-year period.

2. a. A peace officer may cite an individual who, knowing the individual is not licensed or privileged to do so, entered or remained in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders or a place enclosed by a fence as defined in subsection 2, with a noncriminal offense. An individual cited under this subsection may not be prosecuted under subsection 1 for the same offense.
- b. The fine for a citation under subdivision a is two hundred fifty dollars for each violation.

Reference: N.D.C.C. § 12.1-22-03 (2021).

§ 12-15. Theft of property or services.

[Code 1957, § 15.24-1; Ord. No. 640, 2-12-1985]

A person is guilty of theft if he:

1. Knowingly takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with intent to deprive the owner thereof;
2. Knowingly obtains the property of another by deception or by threat with intent to deprive the owner thereof, or intentionally deprives another of his property by deception or by threat; or
3. Knowingly receives, retains, or disposes of property of another which has been stolen, with intent to deprive the owner thereof.
4. They intentionally obtain services, known by them to be available only for compensation, by deception, threat, false token, or other means to avoid payment for the services; or
5. Having control over the disposition of services of another to which they are not entitled, they knowingly divert those services to their own benefit or to the benefit of another not entitled thereto. Where compensation for services is ordinarily paid immediately upon their rendition, as in the case of hotels, restaurants, and comparable establishments, absconding without payment or making provision to pay is prima facie evidence that the services were obtained by deception.
6. Retains or disposes of property of another when they know it has been lost or mislaid; or
7. Retains or disposes of property of another when they know it has been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, and with intent to deprive the owner of it, they fail to take readily available and reasonable measures to restore the property to a person entitled to have it.

§ 12-16. Public libraries; withholding, etc., books.

[Code 1957, § 15.18-1]

It shall be unlawful for any person willfully to keep or withhold any book, pamphlet, magazine, manuscript or other lending material borrowed from the Williston Community Library, or from any other institution maintaining a public library or providing public library service within the City, after the expiration of 30 days following written notice to return the same, given by registered or certified mail pursuant to the lending rules of the institution.

Violation of this ordinance shall be an infraction with a fine of up to \$1,000.00.

§ 12-17. Peeping person.

[Code 1957, § 15.24; Ord. No. 610, §§ 1, 2, 12-14-1982]

1. An individual is guilty under this Section if, with intent to intrude upon or interfere with the privacy of another, the individual:
 - a. Enters upon another's property and surreptitiously gazes, stares, or peeps into a house or place of

dwelling of another; or

b. Enters upon another's property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a house or place of dwelling of another.

2. An individual is guilty under this Section if, with intent to intrude upon or interfere with the privacy of an occupant, the individual:

a. Surreptitiously gazes, stares, or peeps into a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy; or

b. Surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy.

Reference: N.D.C.C. § 12.1-31-14 (2021).

OR

1. An individual, with the intent to arouse, appeal to, or gratify that individual's lust, passions, or sexual desires, is guilty of a this offense if that individual does any of the following:

a. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously gazes, stares, or peeps into a house or place of dwelling of another.

b. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a house or place of dwelling of another.

c. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously gazes, stares, or peeps into a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to expose that individual's intimate parts or has removed the clothing covering the immediate area of the intimate parts.

d. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to expose that individual's intimate parts or has removed the clothing covering the immediate area of the intimate parts

Reference: N.D.C.C. § 12.1-20-12.2 (2021).

§ 12-18. through § 12-21. (Reserved)

[1] *Editor's Note: Former sections 12-18 through 12-21, previously codified herein and containing portions of Code 1957, §§ 15.19 - 15.22, were repealed in their entirety by Ordinance No. 815.*

§ 12-22. Indecent exposure, dress, etc.

1. It shall be unlawful for an individual, with intent to arouse, appeal to, or gratify that individual's lust, passions, or sexual desires, to:

a. Masturbates in a public place or in the presence of a minor;

b. Expose the individual's penis, vulva, or anus in a public place or to a minor in a public or private place;

c. Expose the individual's penis, vulva, or anus by unsolicited electronic means; or

d. Expose the individual's penis, vulva, or anus by any electronic means to a minor.

Reference: N.D.C.C. § 12.1-20-12.1 (2021).

§ 12-23. Gambling--Definitions.

1. "Gambling" means risking any money, credit, deposit or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gambling apparatus, or the happening or outcome of an event, including an election or sporting event, over which the person taking the risk has no control. Gambling does not include:

- a. Lawful contests of skill, speed, strength, or endurance in which awards are made only to entrants or to the owners of entries;
- b. Lawful business transactions, or other acts or transactions now or hereafter expressly authorized by law; or
- c. Use of gaming equipment and devices that may not otherwise be lawful in the state when the equipment or devices are used by any institution under the control of the state board of higher education which awards degrees of bachelor's or higher for the purpose of conducting scientific research in a controlled environment on the campus of that institution.

§ 12-24 Gambling offense

Except as permitted by law, it is an infraction to engage in gambling on private premises where the total amount wagered by an individual player exceeds twenty-five dollars per individual hand, game, or event.

Violation of this ordinance shall be an infraction with a fine of up to \$1,000.00.

Reference: N.D.C.C. 12.1-28-02(1).

§ 12-25. through § 12-36. (Reserved)

§ 12-37. Prostitution,. - Definitions.

(1) .

1. A "house of prostitution" is any place where prostitution is regularly carried on by a person under the control, management, or supervision of another.
2. An "inmate" is a prostitute who acts as such in or through the agency of a house of prostitution.
3. A "prostitute" is a person who engages in sexual activity for hire.
4. A "prostitution business" is any business which derives funds from prostitution regularly carried on by a person under the control, management, or supervision of another.
5. "Sexual activity" means sexual act or sexual contact as those terms are defined in section 12.1-20-02.

§ 12-38. Same - Prohibited.

[Code 1957, § 15.28]

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

1. Is an inmate of a house of prostitution or is otherwise engaged in sexual activity as a business;
2. Solicits another person with the intention of being hired to engage in sexual activity; or
3. Agrees to engage in sexual activity with another for money or other items of pecuniary value; or
4. Hires or offers or agrees to hire another individual with the intention of engaging in sexual activity.

(a) Any place kept in violation of paragraph (1) is a common nuisance.

§ 12-39. Offender Education Program.

A sentence for an offense under section 12-38(4) may include an order for the offender to participate in an offender education program on the negative consequences of the commercial sex industry, including health and legal consequences and the impact on communities, survivors, spouses, and children. The court may order the offender to pay the cost of the offender education program.

§ 12-42. Disorderly house.

An owner or lessee, or both, of a house or building that is used in a manner that habitually disturbs the peace, comfort, or decency of the immediate neighborhood is guilty of maintaining a public nuisance. A lessee is not guilty of an offense under this section unless the lessee is the cause of the nuisance.

Reference: N.D.C.C. §42-01-01.2 (2021).

§ 12-43. Disorderly conduct - Generally.

1. An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior, the individual:

- a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
- b. Makes unreasonable noise;
- c. In a public place, uses abusive or obscene language, knowingly exposes that individual's penis, vulva, or anus, or makes an obscene gesture;
- d. Obstructs vehicular or pedestrian traffic or the use of a public facility;
- e. Persistently follows a person in or about a public place or places;
- f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
- g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose;
- h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person; or
- i. Uses a fixed optical device that enhances or records a visual occurrence to view through any window of another person's property; or uses a surveillance camera to capture an image from the dwelling or accessory structure of another person; however, an individual using a surveillance camera has seven days from notice by a law enforcement officer to direct or shield the camera so as to not capture an image from another person's dwelling or accessory structure before there is an offense.

2. This section does not apply to constitutionally protected activity. If an individual claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.

Reference: N.D.C.C. § 12.1-31-01 (2021).

§ 12-44. Same - Permitting disorderly conduct in building.

[Code 1957, § 15.7]

No person shall commit or suffer to be committed in any building occupied by him within the City limits any roistering, reveling, drunkenness, fighting or improper noises or disorderly conduct calculated to disturb the neighborhood, or annoy or disturb the passers-by or others.

§ 12-46. Disturbing religious worship.

[Code 1957, § 15.8]

No person shall disturb a congregation or assembly of any sect or church met for religious worship in the City or its police jurisdiction, by making a noise or by rude or indecent behavior or profane discourse within the place of worship or on the street or elsewhere so near as to disturb the order or solemnity of the meeting.

§ 12-47. Affrays.

[Code 1957, § 15.1]

If any two or more persons in any public place in the City shall voluntarily or by agreement engage in any fight or use any blows or violence towards each other, in angry or quarrelsome manner, or do each other any willful mischief, every person so offending shall be deemed guilty of an affray.

§ 12-48. Throwing missiles.

[Code 1957, § 15.34]

No person within the City shall wantonly or mischievously throw or project any stone, brick, metal, rock, snowball or other hard substance in, upon, over or across any street, thoroughfare or other public place, or in, upon, over or across any private property without lawful permission.

§ 12-49. Curfew.

[Code 1957, § 15.5; Ord. No. 786, 1-23-1996]

- (a) It shall be unlawful for any minor to loiter, idle, wander, stroll, play or drive or ride in cars idly or aimlessly in or upon the public streets, avenues, highways, roads, alleys, parks, playgrounds and other public grounds, public places and public buildings, places of amusement or entertainment, and vacant lots or other under-supervised places in the City between the hours of 10:30 p.m. and 5:00 a.m. of the following day during the days of Sunday p.m. through Friday a.m., and from 12:00 a.m. to 5:00 a.m. on Saturday and Sunday. This section shall not apply to a minor while attending or while en route to or from an activity supervised by a school, church, civic or fraternal organization or governmental agency, nor shall such provisions apply to a minor accompanied by his or her parents, guardian or other adult person having the care and custody of such minor. If it is claimed that such minor is upon an emergency errand, such minor must carry a written permit signed by the chief of police, parent or legal guardian of the child, stating the nature of the errand, time of departure and the place where the errand is to be performed.
- (b) It shall be unlawful for any parent, guardian or other adult person having the lawful care, custody or control of any minor person to allow or permit such minor person to violate the provisions of this section, or to aid or abet such violation, and it shall be unlawful for any other person to aid or abet such violation.
- (c) It shall be unlawful for any person operating or in charge of any place of amusement, entertainment or refreshment or other place of business, to permit any minor to loiter, loaf or idle in such place during the hours prohibited by this section.
- (d) Whenever the owner or person in charge of any place of amusement, entertainment or refreshment or other place of business shall find a minor, during the hours prohibited, loitering, loafing or idling in such place of business, he shall immediately order the minor to leave, and if the minor refuses to leave the premises the owner or person in charge shall immediately notify the police department and inform the department of such refusal.

- (e) This section shall not be construed so as to permit the presence of any minor in any place where his presence is now prohibited by law or ordinance.
- (f) Any police officer is hereby authorized to arrest without a warrant any person or persons observed by him to be violating the provisions of this section.

§ 12-50. Contributing to delinquency of minor.

Any individual who by any act willfully encourages, causes, or contributes to the delinquency or deprivation of any minor is guilty of a misdemeanor.

Reference: N.D.C.C. § 14-10-06 (2021).

§ 12-51. Marijuana.

[Ord. No. 525, § 15.50, 11-9-1976; amended 8-13-2019 by Ord. No. 1105)

(a) Definitions. As used in this section, the following terms shall have the meanings indicated:

- (1) All parts of the plant Cannabis whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. The term "marijuana" does not include hemp, as defined by Title 4.1 of the North Dakota Century Code.

(b) Prohibited acts.

- 1. It shall be unlawful to possess marijuana within the corporate limits of the City, unless the marijuana was obtained in accordance with the North Dakota Medical Marijuana statute.
- 2. It shall be unlawful to use, or possess with the intent to use, drug paraphernalia to ingest, inhale, or otherwise introduce marijuana into the human body, or possess with the intent to use drug paraphernalia to store or contain marijuana, within the corporate limits of the City.
- 3. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with the North Dakota Medical Marijuana statute, is guilty of a class B misdemeanor.
- 4. The North Dakota Medical Marijuana statute can be found at N.D.C.C. § 19-24.1.

(c) Penalties.

- 1. A person violating Subsection (c)1 by possessing marijuana in an amount of less than 1/2 ounce (14.175 grams) is guilty of an infraction.
- 2. A person violating Subsection (c)2 by possessing at least 1/2 ounce (14.175 grams) but not more than 500 grams of marijuana is guilty of a Class B misdemeanor.
- 3. A person violating Subsection (c)2 by using or possessing with the intent to use drug paraphernalia to ingest, inhale or otherwise introduce marijuana into the human body, or possess with the intent to use drug paraphernalia to store or contain marijuana, is guilty of an

infraction.

4. A person who is under 21 years of age and violates Subsection c(3), intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana, unless the substance was medical marijuana obtained in accordance with N.D.C.C. § 19-24.1, is guilty of a Class B misdemeanor.

§ 12-52. Loud Noise - .

[Code 1957, § 15.17)

It is hereby prohibited and made unlawful for any person within the City or the police jurisdiction thereof, between the hours of 10:00 p.m. and 7:00 a.m., to play any radio, phonograph or other musical device in a manner so loud as to be calculated to disturb the sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb or interfere with the peace and comfort of the occupants of a nearby residence.

§ 12-53. Same - Phonographs with loudspeakers.

[Code 1957, § 15.18]

It is expressly prohibited and made unlawful for any person to operate or allow the operating of a phonograph or similar instrument with a loudspeaker at or near the entrance of the place of business of such person within the City or its police jurisdiction.

§ 12-54. Hotels, etc.; registering under false name.

[Code 1957, § 15.14]

It shall be unlawful for any person to write or cause to be written, or register, in any hotel or lodging house, any other or different name than the true name of such person or the name by which he is generally known or to give any false name to the proprietor of any such hotel or lodging house.

§ 12-56. Nuisances - Enumerated generally.

[Code 1957, § 11.8)

- (a) Things interfering with peace or comfort. Sound, animals or things which interfere with the peace or comfort or disturb the quiet of any person in the City constitute a public nuisance.
- (b) Offensive, nauseous or dangerous things. Anything which is made, permitted, used, kept, maintained or operated, or any building or any animal that is kept in the City or outside of the City, but within one-half mile of its limits, in a manner which is offensive, nauseous, dangerous to life, limb or property or detrimental to the health of the persons residing in that area shall be a public nuisance. Provided that this subsection shall apply to unwholesome businesses within one mile of the City limits.
- (c) Tanneries, soap factories, etc. Whoever shall, within the limits of the City, establish or maintain any tallow chandlery, tannery, bone or soap factory, or shall steam, boil or render any tainted lard, tallow, offal or other unwholesome animal substance shall be deemed guilty of a nuisance; or whoever shall without the City limits, and within one mile thereof, establish or maintain any such chandlery, factory, tannery or rendery, without having first obtained the consent of the Board of City Commissioners; or whoever, having obtained permission and consent shall so conduct or carry on any such business as to taint the air and render it offensive or unwholesome, or so as to affect the health or comfort of persons residing in the neighborhood thereof, shall be deemed guilty of a nuisance.
- (d) Discharge of offensive matter. Whoever shall, within the City, place or throw, or permit to be

discharged, or to flow from or out of any house or premises, any filthy, foul or offensive matter or liquid of any kind, into any street, alley or any public place, or upon any adjacent lot or ground, or shall allow or permit the same to be done by any person connected with the premises, under his control, shall be deemed guilty of a nuisance.

- (e) The various nuisances described and enumerated in this section shall not be deemed to be exclusive, but shall be in addition to all other nuisances described and prohibited by this Code.

§ 12-57. Same - Abatement.

[Code 1957, § 11.9]

- (a) When it is necessary for the protection of the public health to abate or remove any nuisance, source of filth or cause of sickness found on any private property, the Board of Health shall cause a notice to be served on the owner or occupant thereof, requiring him to remove the same at his own expense within a reasonable time, not to exceed 24 hours. If the owner or occupant refuses or neglects to comply with such notice, or if the nuisance, source of filth or cause of sickness exists on the property of nonresident owners or upon property, the owners of which cannot be found, the Board of Health shall cause the nuisance, source of filth or cause of sickness to be removed or destroyed under its direction, at the expense of the City, but such expense shall be charged against the lots, pieces or parcels of land upon which the work was done.
- (b) The cost of the removal or destruction of a nuisance, source of filth or cause of sickness by the Board of Health shall be assessed against the property by the City engineer, who shall return the assessment and file it in the office of the City Auditor. The City Auditor shall cause the amount of the assessment, together with a notice of the time when and the place where the Board of City Commissioners will meet to consider thereof, to be published in one issue of the official newspaper of the City at least 10 days prior to the meeting of the board at which the approval of the assessment will be considered. The City Auditor shall deliver the assessment roll to the county auditor, who shall extend the assessment in the proper column against the property assessed. Each assessment shall be collected and paid as other taxes are collected and paid.

§ 12-58. Letting building for illegal purpose.

[Code 1957, § 15.13]

Every person who allows permits any building or portion of any building, knowing that it is intended to be used for any of the purposes declared punishable by this chapter, is guilty of a violation of this Code.

§ 12-59. Loitering - Generally.

[Ord. No. 472, 3-7-1972]

No person shall loiter in or about or be or remain in or on any public building or grounds at any time when the same shall not be open to the public or to the specific class of the public to which he or she may belong, except only such persons as shall have a legitimate reason for being there in connection with the purpose or purposes for which such building or grounds are maintained, and then only for such time as may be reasonable to accomplish such purpose.

§ 12-60. Same - Failure to answer to or comply with order of official.

[Ord. No. 472, 3-7-1972]

Any official, police officer, superintendent of schools, principal, dean of a college, professor, associate professor, instructor, park superintendent or other person having authority in connection with any public building or grounds may, after identifying himself or herself as such, inquire of any person found loitering

or being in or on any such building or grounds as to his purpose in being there, and if such person refuses to answer or fails to disclose a legitimate reason for being there in connection with the purpose or purposes for which the building or grounds are maintained, may order him to leave, and failure to obey such order shall constitute a violation of this chapter.

§ 12-61. Barbed wire fences.

[Code 1957, § 15.4]

No person shall within the limits of the City erect, construct or maintain any fence or enclosure of any premises, piece or parcel of ground with what is known as barbed wire.

§ 12-63. Adoption of state law relating to reportable diseases.

[Code 1957, § 11.11]

The provisions of N.D.C.C. § 23-07-01 et seq., relating to contagious and reportable diseases, are hereby adopted and made a part of this Code.

§ 12-64. BB guns.

[Code 1957, § 15.39]

It shall be unlawful within the limits of the City for anyone to fire off or discharge any air gun or BB gun.

§ 12-65. Discharge of a Firearm Within City.

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

N.D.C.C. § 62.1-02-06 (2021).

§ 12-66. Concealed weapons.

1. An individual, other than a law enforcement officer, may not carry a firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this section.
2. An individual who is not otherwise precluded from possessing a class 2 firearm and dangerous weapon license, both as defined by North Dakota Century Code, and who has possessed for at least thirty days a valid driver's license or nondriver identification card issued by the department of transportation may carry a firearm concealed under this chapter.
3. An individual may carry a firearm concealed under this chapter if the individual qualifies for reciprocity under section 62.1-04-03.1 of the North Dakota Century Code, and the individual has the equivalent of a class 2 firearm and dangerous weapon license from the state in which the individual is a resident.
4. For purposes of this chapter, the difference between a class 1 and class 2 firearm and dangerous weapon license is only the extent to which a holder of either license may be eligible to receive reciprocal rights in other jurisdictions. A class 1 firearm and dangerous weapon licenseholder is eligible to receive reciprocal rights in more jurisdictions than a class 2 firearm and dangerous weapon licenseholder. The rights and privileges conveyed by a class 1 or class 2 firearm and dangerous weapon license within the state are identical.

N.D.C.C. § 62.1-04-02 (2021).

§ 12-67. Aircraft and parachute landing.

[Ord. No. 587, §§ 1 - 3, 12-22-1981; Ord. No. 778, 6-27-1995]

1. It shall be unlawful for any person to ascend or land with any aircraft, including gliders, balloons, helicopters and parachutes within the City limits, unless properly permitted by the City of Williston Planning and Zoning Commission. This proscription shall not apply to emergency landings nor to military or National Guard personnel. This proscription shall not apply to any medical helicopter operating in a medical emergency. This proscription shall not apply to any landing at an established airport, or heliport.
2. Special permission. Special permission for a regular landing area for helicopters or balloons may be granted by permit, provided, however, that the party seeking such special permission shall apply to the City of Williston in writing for such approval and shall present such application to the Williston Planning and Zoning Commission which shall act upon the same following a public hearing, and shall recommend approval or recommend denial of the request to the Board of City Commissioners, which will also hold a public hearing prior to acting upon the request. Special permission for a one-time event may be granted in the discretion of the Board of City Commissioners, without a hearing and without application to the planning and zoning commission, for an ascent or landing of aircraft, gliders, balloons, helicopters, and parachutes within City limits. Such permission shall be conditioned upon notice to fire department, airport manager, and police department and agreement of applicant to indemnify the City for any and all claims and that applicant will provide insurance for the event in a sum to be determined by the City commission.
3. Penalty. Any person, firm or corporation violating any provision of this ordinance shall be guilty of an infraction with a fine of up to \$1,000.00. A separate offense shall be deemed committed for each violation of this ordinance.

§ 12-68. Imitation controlled substances.

[Ord. No. 622, §§ 1 - 4, 6-28-1983]

1. Definitions.
 - a. "Controlled substance" means a substance as defined in section 19-03.1-01.
 - b. "Imitation controlled substance" means a substance that is not a controlled substance, but which by appearance, including color, shape, size, markings, or packing, or by representations made, would lead a reasonable person to believe that the substance is a controlled substance.
2. Prohibited acts—Penalties
 - a. It is a violation of this section to use, or to possess with intent to use, an imitation controlled substance. It is not a defense that the defendant believed the substance actually to be a controlled substance. Violation of this section is a class B misdemeanor subject to the penalties of 1-11.
3. Determination of imitation controlled substance.

When the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance" as in the case of a powder or a liquid substance, the court or authority concerned should consider, in addition to all other logically relevant factors, all of the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

- a. Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance or its use or effect.
- b. Statements made to the recipient that the substance may be resold for inordinate profit.

- c. Whether the substance is packaged in a manner normally used for illicit controlled substances.
- d. Evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities.
- e. Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances, imitation controlled substances, or fraud.
- f. The proximity of the substances to controlled substances.

§ 12-69. Harassment by telephone.

[Ord. No. 666, 4-10-1986]

- (1) A person is guilty of an offense if, with intent to frighten or harass another, the person: Make a telephone call anonymously or in offensively coarse language;
- (2) Make repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; or
- (3) Communicates a falsehood in writing or by electronic communication and causes mental anguish.
- (b) Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received.
- (c) A person violating any provision of this section is guilty of a B misdemeanor and is subject to the penalties of 1-11.

§ 12-70. through § 12-72. (Reserved)

[1] *Editor's Note: Sections 12-70- 12-72 containing Ord. Nos. 781, 787, 848, 851 and 987 pertaining to sale of tobacco products was repealed by Ordinance No. 1059. See Chapter 9, Article VIII for Licensing and Sale of Tobacco Products.*

§ 12-73. Refusing to Halt.

[Ord. No. 805, §§ 1, 2, 9-23-1997]

- (a) Any person, other than the driver of a motor vehicle or snowmobile, who willfully fails or refuses to stop or who otherwise flees or attempts to elude, in any manner, a pursuing peace officer, when given a visual or audible signal to stop, is guilty of a Class B misdemeanor for a first or second offense.. A signal to stop complies with this section if the signal is perceptible to the person and:
 - (1) If given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the stopping vehicle is appropriately marked showing it to be an official law enforcement vehicle; or
 - (2) If not given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the officer is in uniform and prominently displays the officer's badge of office.
 - (b) Any person who violates this section must be assessed a fine of at least \$500.
- N.D.C.C. 12.1-08-11 (2021).

§ 12-77. Shooting of a bow and arrow within City limits.

[Ord. No. 843, 2-27-2001]

- (1) No person under the age of 17 may shoot a bow and arrow within the City limits, unless the shooting is done under direct adult supervision or within an enclosed building of such construction or design as to keep an arrow from traveling outside the building. This restriction does not apply to bows of less than 20 pounds of pull measured at peak weight shooting blunted non-metallic tips.

- (2) No person may shoot a bow and arrow within the City limits, unless the shooting is done with a backstop sufficient to prevent an arrow from traveling beyond the back stop or from traveling onto another person's property or onto or across a public sidewalk or right-of-way.
- (3) No person may shoot a bow and arrow within the City limits in any manner which endangers the safety of another person or another's property.

§ 12-78. Sellable and non-sellable used tires.

[Ord. No. 913, 2-10-2009]

- (1) Commercial, industrial, and residential.

- (a) All properties not in the business of selling used tires shall:

1. Store the tires indoors;
 2. If stored outdoors, tires shall be screened from view of public rights-of-way and neighboring properties.
 3. Also, if stored outdoors, tires shall be protected from obtaining standing water inside of tires to harbor mosquitoes.

- (b) Commercial and industrial in business of selling new and used tires shall:

1. Store tires outdoors;
 2. If stored outdoors, tires shall be screened from view of all highways and major streets;
 3. Also, if stored outdoors, tires shall be protected from obtaining standing water inside of tires to harbor mosquitoes;
 4. Maximum used tire storage shall be 300 tires on hand at one time;
 5. Maximum non-sellable tire storage shall be no longer than 30 days and stacked neatly.

§ 12-80. Smoking in public places and places of employment-- Definitions

1. "Bar" means a retail alcoholic beverage establishment licensed under N.D.C.C. Chapter 5-02 that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages. The term includes a bar located within a hotel, bowling center, restaurant, or other establishment that is not licensed primarily or exclusively to sell alcoholic beverages.
2. "Business" means a sole proprietorship, partnership, association, joint venture, corporation, or other business entity, either for profit or not for profit, including retail establishments where goods or services are sold and professional corporations and other entities where professional services are delivered.
3. "E-cigarette" means any electronic oral device, such as one composed of a heating element, battery or electronic circuit, or both, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, and e-pipe or under any other product, name or descriptor.
4. "Employee" means an individual who is employed by an employer in consideration for direct or indirect monetary wages or profit, or an individual who volunteers services for an employer.

5. –"Employer" means an individual, business, or private club, including a municipal corporation or trust, or the state and its agencies and political subdivisions that employs the services of one or more individuals.–"Enclosed area" means all space between a floor and ceiling that has 33% or more of the surface area of its perimeter bounded by opened or closed walls, windows, or doorways. A wall includes any physical barrier regardless of whether it is opened or closed, temporary or permanent, or contains openings of any kind and includes retractable dividers and garage doors.
6. "Entrance" means an exterior door that actuates to the left or right which allows access to a public place.
7. –"Health care facility" means any office or institution providing health care services or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions. Some examples of health care facilities include hospitals; clinics; ambulatory surgery centers; outpatient care facilities; weight control clinics; nursing homes; homes for the aging or chronically ill; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any medical professional licensed under N.D.C.C. Title 43, including all specialties and subspecialties in those fields. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, wards within health care facilities, and any mobile or temporary health care facilities.
8. –"Health care services" means services provided by any health care facility. Some examples of health care services are medical, surgical, dental, vision, chiropractic, psychological, and pharmaceutical services.
9. –"Place of Employment" means an area under the control of a public or private employer, including work areas, auditoriums, classrooms, conference rooms, elevators, employee cafeterias, employee lounges, hallways, meeting rooms, private offices, restrooms, temporary offices, vehicles, and stairs. A private residence is not a place of employment unless it is used as a licensed child care, adult day care, or health care facility.
10. –"Public place" means an area which the public enters. Some examples of public places are publicly owned buildings, vehicles, or offices; bars; bingo facilities; gambling and gaming facilities as defined in N.D.C.C. § 12.1-28-01; child care and adult day care facilities subject to licensure by the Department of Human Services, including those operated in private homes; convention facilities; educational facilities, both public and private; facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance; financial institutions; health care facilities; hotels and motels, including all rooms that are rented to guests; laundromats; any common areas in apartment buildings, condominiums, mobile home parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; private and semi-private nursing home rooms; museums, libraries, galleries, and aquariums; polling places; professional offices; public transportation facilities, including buses, trains, airplanes, and similar aircraft, taxicabs and similar vehicles such as town cars and limousines when used for public transportation, and ticket, boarding, and waiting areas of public transit facilities, including bus and train stations and airports; reception areas; restaurants; retail food production and marketing establishments; retail service establishments; retail stores, including tobacco and hookah establishments; rooms, chambers, places of meeting or public assembly including school buildings; shopping malls; sports arenas; theaters; and waiting rooms.
11. –"Publicly owned building, vehicle or office" means a place or vehicle owned, leased, or rented by any estate or political subdivision, or by any agency supported by appropriate of, or by contracts or grants from, funds derived from the collection of taxes.
12. –"Restaurant" includes every building or other structure, or any part thereof, and all buildings in connection therewith that are kept, used, maintained, advertised, or held out to the public as a place where food is served. Some examples of restaurants include coffee shops, cafeterias, sandwich stands, private and public school cafeterias, kitchens, and catering facilities in which food is prepared on the premises for serving elsewhere, and a bar area within a restaurant.
13. –"Shopping mall" means an enclosed public walkway or hall area that serves to connect retail or professional businesses.

14. –"Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. Smoking also includes the use of an e-cigarette which created a vapor, in any manner or any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this section.
15. –"Sports Arena" means an indoor or outdoor place where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events. Some examples of sports arenas include sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling centers.

Reference N.D.C.C. § 23-12-09 (2021). See also Ord. No. 975 (9-10-2013).

§ 12-81 Statutory authorization.

[Ord. No. 975, 9-10-2013]

The Legislature of the State of North Dakota has in North Dakota Century Code, Chapters 40-47, 11- 33 and 58-03, delegated responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

§ 12-82 Smoking restrictions - exceptions -retaliation Application

1. In order to protect the public health and welfare and to recognize the need for individuals to breathe smoke-free air, smoking is prohibited in all enclosed areas of:
 1. Public places; and
 2. Places of employment.
2. Smoking is prohibited within 20 feet (6.10 meters) of entrances, exits, operable windows, air intakes, and ventilation systems of enclosed areas in which smoking is prohibited. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that 20 feet (6.10 meters) is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or place of employment is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.
3. The following areas are exempt from paragraphs 1 and 2:
 1. Private residences, except those residences used as a child care, adult day care, or health care facility subject to licensure by the Department of Human Services.
 2. Outdoor areas of places of employment, except those listed in paragraph (2).
 3. Any area that is not commonly accessible to the public and which is part of an owner-operated business having no employee other than the owner-operator.
4. Smoking as part of a traditional American Indian spiritual or cultural ceremony is not prohibited.
5. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or other person because that person asserts or exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section. An

employee who works in a setting where an employer allows smoking does not waive or surrender any legal rights the employee may have against the employer or any other party. Violations of this subsection shall be a Class B misdemeanor.

6. This section may not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
7. Notwithstanding any other provision of this section, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that an entire establishment, facility, or outdoor area as a non-smoking place.

N.D.C.C. § 23-12-10 (2021). See also, Ord. 975 (9-10-2013).

§ 12-83. Complaints and enforcement.

The provisions of this section shall be enforced by the City Attorney who may ask the North Dakota Attorney General to adopt administrative rules to ensure compliance with this section.

§ 12-84. Responsibility of proprietors.

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this section shall:

- a. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place.
- b. Clearly and conspicuously post at entry entrance to that place a sign stating that smoking is prohibited.
- c. Remove all ashtrays from any area where smoking is prohibited, except for ashtrays displayed for sale and not for use on the premises.
- d. By December 6, 2012, communicate to all existing employees and to all prospective employees upon their application for employment that smoking is prohibited in that place.
- e. For places under his or her control, direct a person who is smoking in violation of this section to extinguish the product being smoked. If the person does not stop smoking, the owner, operator, manager, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, operator, manager, or employee shall immediately report the violation to an enforcement agency identified in this section. The refusal of the person to stop smoking or leave the premises in response to requests made under this section by an owner, operator, manager, or employee shall not constitute a violation of the section by the owner, operator, manager or employee.

[Ord. No. 975, 9-10-2013]

§ 12-85 Penalty.

1. An individual who smokes in an area in which smoking is prohibited under N.D.C.C. § 23-12-10 is guilty of an infraction punishable by a fine not exceeding \$50.
2. Except as otherwise provided in Subsection 5 of N.D.C.C. § 23-12-10, an owner or other person with general supervisory responsibility over a public place or place of employment who fails to comply with N.D.C.C. § 23-12-10 is guilty of an infraction, subject to a fine not to exceed \$100 for the first violation, to a fine not to exceed \$200 for a second violation within one year, and a fine not to exceed \$500 for each additional violation within one year of the preceding violation.
3. In addition to the fines established by this section, violation of this section by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

4. Violations of this section are declared to be a public nuisance that may be abated by restraining order, preliminary or permanent injunction, or other means provided by law.
5. Each day on which a violation of this section occurs shall be considered a separate and distinct violation.

Reference: N.D.C.C. § 23-12-11 (2021). See also, Ord. No. 975 (9-10-2013).

This ordinance shall be in full force and effect after its final passage, approval, and publication, if needed.

Commissioner _____ moved the adoption of the foregoing Ordinance. The Motion was seconded by Commissioner _____. On roll call vote of the Commissioners vote "AYE": _____

_____, and the following Commissioners vote "NAY":
_____. Absent and not voting:
_____.

WHEREUPON, the Motion was passed and the Ordinance declared adopted this _____ day of _____, 2024.

Howard Klug, President
Board of City Commissioners

ATTEST:

Hercules Cummings, Director of Finance

First Reading: December 26, 2023
Second Reading: January ___, 2024

Published:

Adopted the _____ day of _____, 2024.



DATE: December 26, 2023
TO: City Commission
FROM: Hercules Cummings, Finance Director
RE: Report of Departments - Finance

8B1 Approval of Alcoholic Beverage License Renewals for 2024

In your Commission Packet is a list of requested Alcohol Beverage Licenses renewals for 2024. There are currently 57 license holders. Total fees for new licenses this year and 2023 annual renewal fees are \$110,975. Status notes indicate ownership transfers and new licenses approved by the Board throughout the past year, in addition to those establishments that are still undergoing Building and/or Fire Department inspections.

Recommendation: To approve the renewal of Alcoholic Beverage Licenses for the year 2024 contingent upon passing any required inspections, final signatures, and maintaining compliance with any other license requirements as stipulated by the city Code of Ordinances.

8B2 Approval of Business License Renewals for 2024

Below is a list of requested renewals of Business Licenses for 2024. There are currently 253 license holders eligible for renewal. Total fees for new licenses this year and 2024 annual renewal fees are \$44,170. Status notes indicate ownership transfers and new licenses approved by the Board throughout the past year in addition to those establishments that are still undergoing Building and/or Fire Department inspections.

Recommendation: To approve the renewal of Business Licenses for the year 2024 contingent upon passing any required inspections, final signatures and maintaining compliance with any other license requirements as stipulated by the city Code of Ordinances.

Attachments: a8B1
a8B2



DATE: December 26, 2023

TO: City Commission

FROM: Kenny Bergstrom, Director of Public Works

RE: Report of Departments

8D1 Task Order #35- Regional Williston WTP Residuals Pond #3 Relining

This Task Order includes a scope of work that will assist the City of Williston with the design and bidding services for the Regional Williston WTP Residuals Pond #3 Relining Project.

AE2S proposes an hourly not-to-exceed fee of \$90,500 for completion of Final Plans, Specifications, Bid Documents, and Bidding Services. Construction Services (construction staking, construction observation, and construction administration) are proposed to be covered by an amendment to this Task Order once the final scope of construction and construction schedule have been determined.

The proposed schedule for the project is to begin design work upon execution of this Task Order with bidding to occur by June of 2024. The overall project design schedule is heavily dependent on when the final geotechnical report will be received by the City contracted Geotechnical Consultant, American Engineering Testing. A more defined project schedule to complete the design and bidding phase services is attached to the Task Order as "Attachment 2".

We recommend approval of the AE2S Task Order #35, Regional WTP Residuals Pond #3 Relining, in the not to exceed amount of \$90,500.

Attachments

8D1a- Task Order #35



DATE: December 26, 2023

TO: City Commission

FROM: Mark Schneider, Director Development Services

RE: Report of Departments – Development Services

8H1 Resolution for Property Tax Exemption of Certain New Single Family, Condominium and Townhouse Residential Properties

The City Commission approved similar Resolutions (20-048, 21-028, 22-034) in 2020, 2021 and 2022, and the Housing Commission would recommend the extension of the Tax Exemption for one additional year. The North Dakota Century Code (N.D.C.C.) § 57-02-08(35) provides a discretionary exemption for certain new single family residential properties and condominium and townhouse properties from property taxes for the first two taxable years after the taxable year in which construction is completed, the residence is owned and occupied for the first time, and other conditions are met. This exemption is only allowed if the governing body passes a resolution.

The maximum exemption allowed is \$150,000 of true and full valuation of improvements only. The value of improvements allowed by the resolution is exempt for a maximum of two years following the year in which construction was completed and the residence is owned and occupied for the first time, and other conditions are met. The city commission may limit or impose conditions on the exemptions, including limitations on the length of time during which an exemption is allowed.

The first year we passed this resolution in 2020, we spoke to the School Board and received their blessing on the exemption before we voted on this. This year, we did have conversations with Dr. Faidley again. He thought there should be no issues with the exemption, but is taking this to his School Board January 8, 2024 for approval. More homes means more school tax revenues each year, and this exemption only covers the first \$150,000, so the School still receives a tax base from the remaining portion of the value of the homes.

I recommend to approve Resolution 23-030.

Attachments

- 8H1 a) Resolution proposal
- b) New Home Property Tax Exemption rules
- c) Application for Tax Exemption for Newly Built Homes

RESOLUTION 23-030

WHEREAS, Section 57-02-08(35) of the North Dakota Century Code provides for the exemption of up to one hundred fifty thousand dollars of the True and Full value of all new single-family and condominium and townhouse residential property, exclusive of the land on which it is situated, from taxation for the two taxable years after the taxable year in which construction is completed and the residence is owned and occupied for the first time if all of certain enumerated conditions are met; and

WHEREAS, the exemption is to be implemented by resolution of the Board of City Commissioners; and

WHEREAS, the Board of City Commissioners of the City of Williston, North Dakota, deems it to be in the best interests of the City to implement the authority granted in order to provide incentive for the payment of special assessments and for the construction of new dwelling units creating commerce in the local community.

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Williston that up to one hundred fifty thousand dollars of the True and Full value of all new single-family and condominium and townhouse residential property, exclusive of the land on which it is situated, including modular housing as defined in the current Williston Zoning Ordinance that is permanently attached to a foundation as required by the Williston Building Codes; and excluding property located in a Tax Increment Funding District, or, during the same time, receiving exemption from any other item under NDCC 57-02-08, shall be exempt from taxation for the first two taxable years after the taxable year in which construction is completed and the residence is "owner occupied" for the first time if the following conditions are met:

- a) Special assessments and taxes on the property upon which the residence is situated are not delinquent.
- b) The owner will need to contact the Valuation & Equalization Office to advise when construction is completed. Failure to do so will result in the loss of the exemption.

BE IT FURTHER RESOLVED, that this resolution shall be effective for taxable years beginning after **December 31, 2023** and is ineffective after **December 31, 2024**. Application forms shall be available at the office of the City Assessor. Approval of all applications shall be acted upon by the Williston City Commission.

This Resolution was proposed and read by Commissioner_____, who moved its adoption. The motion was seconded by Commissioner_____, and upon being put to a vote, the following Commissioners voted "AYE": _____ and the following Commissioners voted "NAY": _____. Absent and not voting:_____.

Dated this _____ day of December 2023.

HOWARD KLUG, President
Board of City Commissioners

ATTEST:

Hercules Cummings, Finance Director



DATE: December 26, 2023
TO: City Commission
FROM: Mark Schneider, Director Development Services
RE: Report of Departments – Development Services

8H2 New Home Permit Fee Waiver

Last December the City Commission voted for the third year in a row to waive all permit fees for new Single Family and Twin Home building permits for a year. 32 Builders and Homeowners took advantage of this program in 2023, estimating nearly \$2,650 savings per home. The City continues to collect permit fees for Commercial, Multi-family projects, as well as single family Remodel and Addition projects.

The Housing Commission believes we need to create a smorgasbord of smaller incentives instead of a larger \$50,000 incentive similar to McKenzie Counties programs. Since the city is on a tighter budget, every smaller incentive helps create a bundle of programs that we feel help get homes started. Every incentive is important in keeping our contractors and homeowners moving forward and building rooftops in Williston.

The Housing Commission created a spreadsheet of Permit Fees collected for every new single-family home, to show the payback from tax revenues for every new home start. This spreadsheet includes sales tax of materials and a yearly payback by having a family live in a home, and not an apartment. New homes pay back after the first year but continue to accumulate forever after they are built. We have also included a few interesting notes and facts about the number of homes and rental properties in Williston. Also included is an ESRI report for 2023 in Williston stating some housing statistics.

The Housing Commission has met and reviewed the existing incentives and would ask the City Commission to consider waiving permit fees for an additional year, until December 31, 2024.

I recommend waiving permit fees for new Single Family and Twin Home Building Permits until December 31st, 2024.