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CHAPTER ONE  
GOVERNMENT ORGANIZATION

ARTICLE 1 - Jurisdiction

1.0101 Over Persons and Property

The jurisdiction of the City of Ellendale, 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.

1.0102 Defining City Limits

There shall be included within the municipal limits of the City 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 health and quarantine ordinances and police regulations and ordinances adopted to promote the peace, order, safety and general welfare of the municipality. (Source: North Dakota Century Code Section 40-06-01)

1.0103 City Fines and Penalties Limited

The provisions of Section 40-05-06 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

This section shall not be construed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provided by NDCC Section 12.1-32-02 for the violation of a City ordinance, nor shall this section limit the use of deferred or suspended sentences pursuant to NDCC Chapter 12.1-32.

1.0104 Penalties for Violations of a City Ordinance

Unless otherwise specified, there shall be the following penalties for the violation of any ordinance that is deemed to be an infraction herein: First offense - \$25.00 fine; Second offense - \$50.00 fine; Third offense - \$100.00 fine; Fourth or subsequent offense – a fine in an amount not less than \$200.00. The maximum possible penalty for any violation deemed to be an infraction as set forth in these ordinances is a \$1000.00 fine.

The maximum possible penalty for any violation deemed to be a Class B Misdemeanor as set forth in these ordinances shall be a \$1500.00 fine, 30 days in jail, or both may be imposed.

## ARTICLE 2 - Governing Body - City Council

WE, THE CITY COUNCIL OF THE CITY OF ELLENDALE, NORTH DAKOTA, do hereby amend Chapter 1 by amending article 1.0201 to read as follows:

### 1.0201 Regular Meetings

The City Council shall meet regularly at the City Hall at least once a month on a date certain established by resolution of the Council. Unless otherwise set by resolution from time to time, the monthly meeting shall occur on the second Monday of each month at the time of 6:30 P.M. unless some other time and place shall be specifically fixed by resolution of the Council. The Council shall meet in addition thereto, as often as required by Section 40-08-10 of the North Dakota Century Code.

### 1.0202 Special Meetings

Special meetings may be called at any time by the Mayor or any two (2) members of the City Council to consider matters mentioned in the call of such meetings. Notice of any special meeting shall be given to each member of the City Council at least three (3) hours before the time of the meeting.

### 1.0203 Meeting to be Public - Journal of Proceedings to be Kept

All meetings of the City Council shall be open to the public, and a journal of its proceedings shall be kept. Notice of the regular meeting time or of special meeting shall be given as provided by Section 44-04-20 of the North Dakota Century Code and amendments.

### 1.0204 Quorum

The provisions of Section 40-06-03 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

A majority of the members of the City Council shall constitute a quorum to do business but a smaller number may adjourn from time to time. The City Council 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.

### 1.0205 Reconsidering or Rescinding Votes at Special Meeting

The provisions of Section 40-06-04 of the North Dakota Century Code and all subsequent amendments shall be and hereby are incorporated by reference in this section.

No vote of the City Council 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.

### 1.0206 Rules and Order of Business

Rules and order of business for the parliamentary government of the City Council shall be governed by Robert's Rules of Order. (Source: North Dakota Century Code Section 40-06-

05)

### ARTICLE 3 - Elective Officers

#### 1.0301 City Council - Who Constitutes

The governing body of the City shall be the City Council which shall be composed of the Mayor and Council members. The Mayor and 6 Council members shall be elected as provided by law. (Source: North Dakota Century Code Sections 40-08-01,03)

#### 1.0302 Council Members Elected at Large

All Council members to the City Council of Ellendale shall be elected at large. The Council members to the City of Ellendale will not have to reside within a specified ward to be elected a member of the City Council. All elections after the final reading shall be based on the at large system. Vacancies in the City Council shall be filled in accordance with Section 40-08-08 North Dakota Century Code.

#### 1.0303 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 shall be elected in any one election.

#### 1.0304 Mayor - Qualifications - Term

The chief executive officer of the City is the Mayor. The Mayor shall be a qualified elector within the City and shall hold office for four years and until a successor is elected and qualified. (Source: North Dakota Century Code Section 40-08-14)

#### 1.0305 When President and Vice President of a Council are Elected

The provisions of Section 40-08-11 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section. 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 vice president who shall hold their respective offices until their successors are elected at the organization meeting following the next biennial election.

#### 1.0306 Vacancies on Council or in Office of Mayor - How Filled

If a vacancy occurs in the office of Council member by death, resignation or otherwise, City Council may call a special City Election to fill such vacancy for the unexpired term or may, after fifteen (15) days of the date of such vacancy appoint a person to fill such vacancy until the next City Election, at which election the unexpired term shall be filled. Upon petition of five percent of the electors, as determined by the total number of votes cast in the last general election, the Council shall call a special election to fill a vacancy occurring more than six months before the next City Election, provided such petition has been submitted within fifteen (15) days and before 4:00 p.m. of the fifteenth (15th) day of the date of such vacancy or of the vacancy being filled by appointment. If the petition is mailed, it shall be in possession of the Council or its representative before 4:00 p.m. on the fifteenth (15th) day after the vacancy occurs or after the vacancy was filled by appointment. (Source: North Dakota Century Code Section 40-08-08)

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 fifteen (15) days from the date of such vacancy, elect one of its members to act as Mayor, the member so elected shall possess all of 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 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 fifteen (15) days of the date of such vacancy. During the interim between date when a vacancy occurs in the office of the Mayor and election and qualification of a successor, the president of the City Council shall be acting Mayor. (Source: North Dakota Century Code Section 40-08-16)

#### 1.0307 Absence or Disability of Mayor - Who to be Acting Mayor

During the absence of the Mayor from the City or during his temporary disability, the president of the City Council shall be the acting Mayor and shall possess all of the powers of the Mayor. In the absence or disability of the Mayor and the president of the City Council, the vice president of the City Council shall be the acting Mayor. (Source: North Dakota Century Code Section 40-08-13)

#### 1.0308 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 he shall cast the deciding vote. (Source: North Dakota Century Code Section 40-08-18)

#### 1.0309 Removal of Appointive Officers

The Mayor or a council member of the City Council may request the removal of an appointed official that was appointed by the Mayor. Said request may be made when the Mayor or council member is of the opinion that the best interest of the City requires removal of said appointed official.

The City Council shall meet in regular or special meeting to discuss the removal request. All members of the City Council must be present at such meeting and a minimum of four (4) members must vote to remove the said appointed official for that appointed official to be removed. The Mayor or council member who has initiated the request for the removal of an appointed official shall be allowed to show cause for the removal of the appointed official but shall be required to abstain from voting for the removal of said appointed official. If two (2) or more members of the City Council shall make a joint request for the removal of an appointed official, then the members making such request shall not be required to abstain and all members of the City Council shall have the right to vote. The Mayor shall have the right to cast a vote in this matter provided that the Mayor is not the sole City Council member to request the removal of said appointed official.

This shall be the only situation in which the Mayor shall have the same voting privileges as a council member and shall be an exception to the Mayor's voting authority as outlined in city ordinance 1.0308. The City Council shall have exclusive authority to

remove any such appointive official. This removal function is given to the City Council and removes the Mayor's individual authority to do so.

1.0310 Mayor may Suppress Disorder and Keep Peace

The Mayor may exercise within the City limits the powers conferred upon the sheriff to suppress disorder and keep the peace. (Source: North Dakota Century Code Section 40-08-20)

1.0311 Mayor to Perform Duties Prescribed by Law - Enforced 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: North Dakota Century Code Section 40-08-22)

1.0312 Inspection of Books, Records and Papers of City by Mayor

The Mayor, at any time, may examine and inspect the books, records and papers of any agent, employee or officer of the City. (Source: North Dakota Century Code Section 40-08-23)

1.0313 Ordinance or Resolution Signed or Vetoed by Mayor

The Mayor shall sign or veto each ordinance or resolution passed by the Council. (Source: North Dakota Century Code Section 40-08-24)

1.0314 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 consideration such measures that he may deem expedient. (Source: North Dakota Century Code Section 40-08-25)

1.0315 Mayor May 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 the enforcing of the laws and ordinances of the City. (Source: North Dakota Century Code Section 40-08-26)

1.0316 Police Chief and Policemen Appointed by Mayor

The Mayor may appoint any number of policemen which he and the City Council may deem necessary to preserve the peace of the City, and he shall appoint one of the number as chief of police. Such appointment shall be subject to approval of the Council. (Source: North Dakota Century Code Section 40-08-27)

1.0317 Mayor May Administer Oath

The Mayor of the City may administer oaths and affirmations. (Source: North Dakota Century Code Section 40-08-28)

1.0318 Public Works Director Appointed by Mayor

The Mayor shall appoint a Public Works Director to oversee the maintenance and operation of the city infrastructure. Such appointment shall be subject to approval of the City Council.

#### ARTICLE 4 – Court Services

##### 1.0401 County Judge to Hear Violations of City Municipal Ordinances

Pursuant to Section 40-18-06.2 of the North Dakota Century Code, the City has, with the agreement of the governing body of Dickey County, arranged for the County Judge to hear all violations of the City’s municipal ordinances.

##### 1.0402 Contracts with Dickey County for Court Services

The City Council is hereby authorized to enter into contracts with Dickey County, as it deems advisable from time to time, providing for the administration of prosecutions and adjudications of municipal ordinance violations. Such contracts shall be effective upon the approval by resolution of the City Council.

##### 1.0403 Dickey County Court Authorized To Exercise All Powers and Duties of Municipal Court

During all times when such contract between the City and Dickey County are in effect, the County Court of Dickey County is hereby authorized to exercise all of the powers and duties of the municipal court of the City of Ellendale in the adjudication of Municipal Ordinance Violation cases.

#### ARTICLE 5 - Appointive Offices

##### 1.0501 Appointive Officers in Council Cities

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

1. city auditor;
2. city assessor;
3. city attorney;
4. city engineer;
5. 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 majority vote, may dispense with any appointive office and provide that the duties of that office be performed by others. (Source: North Dakota Century Code Section 40-14-04)

##### 1.0502 Term of Appointive Officers

The term of all appointive officers of the City shall commence the first day of July succeeding their appointment unless otherwise provided by ordinance, and such officers shall hold their respective offices for two years, and until their successors are appointed and qualified.

##### 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, shall be commissioned by warrants signed by the Auditor and the Mayor or president of the City Council. The Mayor shall issue a Certificate of Appointment to the City Auditor. (Source: North Dakota Century Code Section 40-14-06)

### 1.0504 General Duties of City Auditor

It shall be the duty of the City Auditor to issue the calls for all special meetings of the City Council when requested to do so by the Mayor or any two (2) members of the City Council. (Source: North Dakota Century Code Section 40-08-10) He shall also keep a full and complete record of all meetings of the City Council and shall keep a book titled as the "Ordinance Book" and shall record therein at length all ordinances of the City. He shall also keep a book titled as the "Special Assessment Book" in which he shall keep all records of special assessments. All such books shall have full and complete indexes of the contents thereof. He 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 him during the month and he shall duly give to the Council a copy of his receipt therefore. He shall further handle all correspondence, permits and licenses and shall do and perform each, every and all duties and things prescribed for him to do by statutes of this state, or by an ordinance, resolution or proper instruction of the City Council. (Source: North Dakota Century Code Section Chapter 40-16)

### 1.0505 General Duties of City Attorney

The City attorney shall conduct all the law business of the City and of the departments thereof, and all law business in which the City shall be interested; he shall, when requested, furnish written opinions upon the subjects submitted to him by the City Council, or any other department. It shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances and such other instruments as may be required by the officers of the City; to examine and inspect tax and assessment rolls and all other proceedings in reference to the levying and collection of taxes and to perform each and every and all duties and things prescribed by him to do by statutes of the state, or by an ordinance, resolution or proper instruction of the City Council.

### 1.0506 General Duties of Other Appointive Officers

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

## ARTICLE 6 - Special Provisions Regarding City Officers

### 1.0601 Bonds of Municipal Officers and Employees

The following officers and employees of the City shall be bonded in a dollar amount as determined by the city council from time to time..

1. Mayor
2. City auditor
3. Municipal judge
4. City assessor
5. Chief of Police

Said officers or employees shall be bonded in accordance with the provisions of Section 40-13-02 and Chapter 26.1-21 of the North Dakota Century Code.

#### 1.0602 Oaths of Municipal Officers

Every person appointed to any municipal office, before he enters 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 auditor, shall file the same with the City Auditor within ten (10) days after notice of his election or appointment has been given. The oath of the Auditor shall be filed in the office of the County Auditor. Refusal to take the oath of office shall also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to NDCC 44-02-01. (Source: North Dakota Century Code Section 40-13-03)

#### 1.0603 Salaries of Elected Officers Fixed by Ordinance or Resolution

Any elected officer of this City shall receive the salary, fees or other compensation fixed by ordinance or resolution within the limitations set by NDCC Sections 40-08-07, 40-08-15 and 40-18-06.

#### 1.0604 Salaries of Appointive Officers and Employees

Salaries of City appointive officers and employees, except as otherwise provided by law, shall be in such sums and amounts as may be, by resolution of the City Council, fixed from time to time.

#### 1.0605 Meals and Lodging - Amount Allowed

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

Verifications of claims shall not be required for the first three quarters listed above and only a lodging receipt shall be required for the fourth quarter.

Such persons engaged in travel outside of the state shall not claim a sum in excess of that allowed by the City Council a day for meals and in addition thereto actual lodging expenses. Verification by receipt for such out-of-state travel expense shall be required only for lodging expense claimed. Verification of any other type of expenses not prescribed by this section shall be by receipt.

Any person filing a false claim with the City for mileage or expenses as herein permitted is guilty of an infraction.

#### 1.0606 Personal Interest in Contract by Public Officer - Prohibited

No contract for the furnishing of supplies to the City, or buying of property from the City shall be entered into by any officer of the City, provided, however, that such contracts may be entered into with an officer of the City, if such contract is unanimously approved by other

members of the City Council by a finding unanimously adopted by such other members, and entered in the official minutes of the City Council, to be necessary for the reason that the services or property are not otherwise available at equal cost. (Source: North Dakota Century Code Section 40-13-05)

#### 1.0607 Retiring Officer to Turn Over Books

Any person having been an officer of the City shall, within five (5) days after notification and request, deliver to his successor in office, all property, books and effects of every description in his possession belonging to the City or appertaining to his office; and upon his refusal to do so, shall be liable for all damages caused thereby, and guilty of an infraction.

#### 1.0608 Administrative Policy and Procedure

PERFORM DUTIES. Each officer shall:

1. Perform all duties required of his office by law or ordinance and such other duties not in conflict as may be required by the City Council.
2. Be immediately responsible to the City Council 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 City Council such new practices as appear to be of benefit to the service and to the public.
4. Submit such reports of activities of their departments as the City Council may request.
5. Be responsible for the proper maintenance of all City property and equipment used in their departments.
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 City Council.
7. Cooperate with other officers, departments and employees.
8. Have power to direct and supervise all department subordinates.
9. Be available during the hours designated by the City Council.

#### 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 set forth in Section 1.0104 herein.

### ARTICLE 7 - Purchasing and Disposition of Property

#### 1.0701 Competitive Bidding Requirements

All purchase of and contracts for supplies and contractual services with a cost in excess of one hundred thousand dollars (\$100,000.00) shall be based on competitive bids.

#### 1.0702 Procedure

All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$100,000.00, shall be purchased from the lowest responsible bidder after due notice inviting proposals. Due notice shall be given by advertising for the sale or purchase of the property or service by giving written notice in the official newspaper of the City for three (3) consecutive weeks and the opening of the bids so received not less than twenty-one (21) days after the first publication thereof. The lowest responsible bidder shall be the bidder who, in addition to price, has the best ability, capacity and skill to perform the contract or provide the service required promptly or within the specified time without delay or interference. There shall also be considered character, integrity, reputation, judgment, experience and efficiency of the bidder, the quality of performance of previous contracts, sufficiency of financial resources and previous and existing compliance with state laws and City ordinances.

#### 1.0703 Open Market Purchases - Emergency

When the City Council decides by unanimous vote that an emergency requires the immediate purchase of supplies or contractual services, the purchases may be made in the open market competitive bidding.

#### 1.0704 Accounts Against City to be in Writing

Accounts, claims and demands against the City for any property or services for which the City shall be liable, shall be made in writing and shall include an itemized statement of the property or services provided.

#### 1.0705 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 require to be furnished a statement made under oath, containing such other information as is deemed necessary for the further verification of any bill, claim, account or demand against the City, or any of its undertakings.

#### 1.0706 Conveyance, Sale, Lease or Disposal of Property

Real property belonging to the City shall be conveyed, sold, leased or disposed of, only as approved of by a majority of all members of the City Council. Instruments affecting such conveyance, sale, lease or disposal shall be valid only when duly executed by the Mayor and attested by the City Auditor. Personal property shall be conveyed by a majority vote of all members of the City Council. When the property to be disposed of, whether real property or personal property, is estimated by the City Council to be of a value of less than \$2,500.00, such property may be sold at private sale upon the proper resolution of the City Council. In all other cases, such property may be sold only at public sale or as provided under Section 40-11-04.2 of the North Dakota Century Code (Source: North Dakota Century Code Section 40-11-04). Bids for the purchase or lease of real property belonging to the City, whether or not advertisement therefore has been made, shall be made directly to the City Council and submitted to the City

Auditor, who shall present any and all such bids to the City Council at its next regularly scheduled meeting. The City Council may also, 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 City Council may engage licensed real estate brokers to attempt to sell the described property by way of non-exclusive listing agreements with the (City Council). When specific statutory provisions contained in the North Dakota Century Code provide for a procedure which is in conflict with this section, governing the conveyance, sale, lease or disposal of real property, this section shall not apply insofar as it is in conflict with such state law. Said statutory procedures include the following:

1. Lease of airports or landing fields, or portions thereof shall be under authority granted in Section 2-02-15, NDCC. Said lease shall further be in compliance with regulations and directives appropriate federal agencies.
2. Conveyance of right of way for any state highway shall be as provided in Section 24-01-46, NDCC.
3. Leasing of oil and gas lands shall be as provided in Sections 38-09-02 through 38-09-04 and Sections 38-09-14 through 38-09-20, NDCC.
4. Conveyance of property to a municipal parking authority shall be as provided in Section 40-61-05, NDCC.
5. Lease of public buildings or portions thereof shall be as provided in Chapter 48-08, NDCC.
6. Granting of concessions for cafes, restaurants and confectioneries in public buildings or on public grounds shall be as provided in Chapter 48-09, NDCC.
7. Granting of right-of-way for a railway, telephone lines, electric light system or a gas or oil pipeline system shall be as provided in Section 49-09-16, NDCC.

#### 1.0707 Real Property Transfer Requirements

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

### ARTICLE 8 - Municipal Elections

#### 1.0801 Qualified Electors in Municipal Elections - Restrictions

The provisions of Section 40-21-01 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

Every resident of the City who is qualified to vote therein at general elections may vote at all municipal elections held therein.

#### 1.0802 Elections in Council Cities - Polling Places - Polls Open - Notice

The provisions of Section 40-21-02 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

Biennial municipal elections shall be held on the second Tuesday in June in each even numbered year at such place or places as the City Council shall designate. The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general and special elections. Ten (10) days' notice of the time and place of holding each election and offices to be filled thereat shall be given by the City Auditor by publication in the official newspaper of the City as provided by Section 40-01-09.

#### 1.0803 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 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 polling places.

#### 1.0804 Compensation of Inspectors, Judges and Clerks at Municipal Elections

The provisions of Section 40-21-05 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

Each inspector, judge or clerk of any regular or special municipal election shall receive compensation as determined for election officials in Section 16.1-0505. 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.

#### 1.0805 Reference to Party Ballot or Affiliation in Petition of Candidate for Municipal Office - Prohibited

The provisions of Section 40-21-06 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

No reference shall be made to a party ballot or to the party affiliation of a candidate in a petition to be filed or in behalf of a candidate for nomination to a public office in the City.

#### 1.0806 Petition for Nomination of Elected Official in Municipalities - Signatures Required - Contents

The provisions of Section 40-21-07 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

A candidate for any public office in the City may be nominated by filing with the City Auditor, at least sixty (60) days and before four p.m. on the sixtieth day prior to the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last City election. Qualified electors who sign such a petition shall reside within the corporate limits of the City. If a petition is mailed, it shall be in the possession

of the City Auditor before four p.m. on the sixtieth day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each qualified elector who signs a petition shall add to the petition the petitioner's mailing address. If a City election is not held in conjunction with a state or county election, a candidate may be nominated by filing the required petition with the City Auditor at least thirty-three (33) days and before four p.m. on the thirty-third day before the holding of the election.

#### 1.0807 Ballots in Municipalities - Makeup

The provision of Section 40-21-08 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

The City Auditor shall place only the names of the persons nominated upon the ballot. The Auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The Auditor shall determine the arrangement of the names of the candidates upon the ballot by conducting a drawing within five (5) days following the last day for the filing of the nomination papers. The City Auditor shall set the date, time and location for conducting the drawing and shall give advance notice of the drawing to the candidates involved.

#### 1.0808 Clerks Appointed to Fill Vacancies - Oath - Powers and Duties of Judges and clerks of Municipal Elections

The provisions of Section 40-21-11 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

When necessary, the judges of election at a municipal election shall appoint clerks to fill vacancies. The judges and clerks of a municipal election shall take the same oath and have the same powers and authority as judges and clerks of general state elections.

#### 1.0809 Counting Ballots - Returns - Canvass of Returns by City Council - Agreement with the County

The provisions of Section 40-21-12 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

The ballots case 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 the returns of the election shall be returned to the City Auditor under seal within two (2) days and before four p.m. on the second day after the election. Thereafter, the City Council shall canvass the returns and declare the result of the election and cause a statement thereof to be entered in its books of minutes.

When a City election is held in conjunction with a state or county election, the City Council shall enter into an agreement with the governing body of the county concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices and the apportioning of election expenses.

#### 1.0810 Municipal Elections to be Governed by Rules Applicable to County Elections - Absent Voting

The provisions of Section 40-21-13 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

The manner of conducting, voting at, keeping poll lists and canvassing votes at municipal elections, recounts 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 the provisions of Chapter 16.1-07 as amended.

#### 1.0811 City Auditor to Notify of Election or Appointments

The provisions of Section 40-21-14 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

The City Auditor, within five (5) days after the result of an election is declared or the appointment of an officer is made within the City, shall notify each person elected or appointed to municipal office of his election or appointment.

#### 1.0812 New Election Upon Failure to Elect

The provisions of Section 40-21-15 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

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

#### 1.0813 Special Elections Conducted in Same Manner as General Elections

The provisions of Section 40-21-16 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

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

#### 1.0814 Highest Number of Votes Elects in Municipal Election - Procedure on Tie Vote

The provisions of Section 40-21-17 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this section.

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, a recount must be conducted pursuant to Section 16.1-16-01 of the North Dakota Century Code. If a recount results in a tie vote, the choice shall be determined by a coin flip in the presence of the City Council and in such manner as it shall direct.

### ARTICLE 9 - Records Management Policy

#### 1.0901 Adoption of Policy

The management of records in the City shall meet with the provisions of the City Records



Management Manual published by the Records Management Division of the North Dakota Information Technology Department, a copy of which is on file with the City Auditor. That publication is hereby made a part of this chapter by reference with the exceptions of the sections hereinafter set forth affecting local conditions in the City, which are amended, deleted or added to, for use and application in the City, and the City hereby adopts said manual as so modified.

1.0902 Amendments, Deletions, Additions to City Records Management Manual

Sec. \_\_\_\_\_ shall be amended to read as follows:

Sec. \_\_\_\_\_ shall be deleted.

Sec. \_\_\_\_\_ shall be added to said manual to read as follows:

ARTICLE 10 – General Fund Levies

1.1001 Adoption of Policy

Pursuant to the powers granted under the Home Rule Charter, the following levies are included in the General Fund for budget purposes:

- 202-1605: Federal Social Security
- 208-1614: Cemetery
- 205-1615: Advertising
- 207-1616: Planning Commission
- 211-1631: Insurance Reserve Fund
- 215-1635: Forestry Purposes
- 210-1639: Pension for City Employees

ARTICLE 11 – Special Taxing

1.1101 Restaurant and Lodging Tax

Section 1. Definitions:

For the purposes of this Ordinance,

- A. "restaurant" means any place where food is prepared and intended for individual portion service for consumption on or off the premises.
- B. "prepared" includes heating prepackaged food.

Section 2. CITY LODGING TAX IMPOSED - DISPOSITION

There is imposed a tax in the amount of two percent (2%) upon the gross receipts of retailers on the leasing or renting of hotel, motel or tourist court accommodations within the City for periods of less than thirty consecutive calendar days or one month. The tax imposed by this section shall be in addition to the state sales tax and the City sales tax on rental accommodations. All proceeds collected under this section shall be deposited in the city visitors' promotion fund and spent only as provided by Chapter 40-57.3 of the North Dakota Century Code.

Section 3. CITY RESTAURANT TAX IMPOSED – DISPOSITION

In addition to the city lodging tax, there is imposed a tax of one percent (1%) upon the gross receipts of a restaurant from any sales of prepared food or beverages, not including

alcoholic beverages for consumption off the premises where purchased, which are subject to state sales tax. Food and beverages are both, each, or in any combination subject to the tax under this section, if all items in any category which are taxable under state law are taxable, except as otherwise provided by Chapter 40-57.3 of the North Dakota Century Code. The tax imposed by this section shall be in addition to state sales tax and the City sales tax on restaurant sales. All proceeds collected under this section shall be deposited in the visitor's promotion capital construction fund and may be spent to promote tourism in general.

**Amendment of Chapter 1  
Ellendale Revised Ordinances  
Amendment of Article  
1.1102**

WE, THE CITY COUNCIL OF THE CITY OF ELLENDALE, NORTH DAKOTA, do hereby amend Chapter 1 of the Ellendale Ordinances by changing article 1.1102 as follows:

Be it ordained by the City Council of the City of Ellendale, Dickey County, North Dakota, that the Ordinances be amended by amending article 1.1102 to read as follows:

1.1102 City Sales, Gross Receipts, and Use

Tax Section 1. Definitions

All terms defined in Chapter 57-39.2, Chapter 57-39.5, Chapter 57-39.6, and Chapter 57-40.2 of the North Dakota Century Code (NDCC), including all future amendments, are adopted by reference in this chapter.

Section 2. Sales Tax Imposed

Except as otherwise provided in this chapter, there is imposed a tax of two percent (2%) upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within the corporate limits of the city, of the following to consumers or users (NDCC 57-39.2-02.1):

1. Tangible personal property, consisting of goods, wares, or merchandise.
2. The furnishing or service of communication services or steam other than steam used for processing agricultural products.
3. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity.
4. Magazines and other periodicals.
5. The leasing or renting of a hotel or motel room or tourist court accommodations.
6. The leasing or renting of tangible personal property, the transfer of title to which

has not been subjected to a retail sales or use tax under this chapter.

7. Tobacco products taxed by the state.
8. Sales of tangible personal property through vending machines taxed by the state under NDCC section 57-39.2-03.3.

### Section 3. Farm Machinery Gross Receipts Tax Imposed

Except as provided in this chapter, there is imposed a tax of two percent (2%) upon the gross receipts of retailers from all sales at retail including the leasing or renting of farm machinery or irrigation equipment used exclusively for agricultural purposes as provided in this section, within the corporate limits of the city (NDCC 57-39.5-02); and except as otherwise provided in this chapter, a gross receipts tax at the rate of one percent is imposed on the storage, use, or consumption of farm machinery in this city (NDCC 57-39.5-05).

### Section 4. Alcoholic Beverages Gross Receipts Tax

Except as otherwise provided in this chapter, there is imposed a tax of two percent (2%) upon the gross receipts of retailers from all sales at retail of alcoholic beverages (NDCC 57-39.6-02): and except as otherwise provided in this chapter, a gross receipts tax at the rate of two percent (2%) is imposed on the storage, use, or consumption of alcoholic beverages in this city (NDCC 57-39.6-05).

### Section 5. Use Tax Imposed

Except as otherwise provided in this chapter, an excise tax at the rate of two percent (2%) is imposed on the storage, use, or consumption in this city on the following (NDCC 57-40.2-02.1):

1. The purchase price of tangible personal property purchased at retail for storage, use, or consumption in this city.
2. The fair market value of tangible personal property which was not originally purchased for storage, use, or consumption in the city.
3. Tobacco products subject to the state use tax under NDCC section 57-40.2-03.2.
4. The purchase price or fair market value, whichever is greater, of tangible personal property used for a contractor or sub-contractor to fulfill a contract which is subject to the state use tax under NDCC section 57-40.2-03.3.

### Section 6. Exemptions

There are specifically exempted from the provisions of this chapter and from the computation of the amount of tax imposed by it the following:

1. All of those sales exempted from the imposition and computation of the state sales tax or use tax pursuant to NDCC sections 57-39.2-04, 57-39.2-04.1, 57-40.2-04, and 57-40-04.1.

2. All of those sales exempted from the imposition and computation of the state farm machinery gross receipts tax pursuant to NDCC chapter 57-39.5.
3. All of those sales exempted from the imposition and computation of the state alcoholic beverage gross receipts tax pursuant to NDCC chapter 57-39.6.
4. All sales of natural gas.
5. All sales from coin operated amusement.
6. All other transactions or storage, use or consumption exempted from imposition of the state sales tax, gross receipts tax, or use tax pursuant to state law.

#### Section 7. Refund of Tax

Any patron or user paying sales or use tax imposed by this ordinance in excess of \$50.00 upon any single transaction of one or more items may obtain a refund of the excess tax payment by filing a request for refund upon the forms provided by the North Dakota Office of State Commissioner.

#### Section 8. Tax Administrator

The tax administrator shall be the North Dakota State Tax Commissioner. The city auditor is hereby authorized and directed to contract with the North Dakota State Tax Commissioner for the administration and collection of taxes established under this chapter, subject to confirmation of the contract by the city governing body. The city auditor and the Tax Commissioner shall have the powers specified in NDCC section 57-39.2-21.

#### Section 9. Tax Returns and Reports

The tax administrator is authorized to create, publish, and require the use of such tax return forms and reports as, in the judgment of the tax administrator, are necessary to administer the taxes provided for in this chapter. Returns shall be filed with the North Dakota State Tax Commissioner in the same manner and at the same time as retailers file their returns of gross receipts for state sales, gross receipts, and use taxes. The taxes imposed under this chapter shall be paid and collected as nearly as practical in accordance with the payment, collection and penalty provisions, and the refund and interest provisions of NDCC Chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2.

#### Section 10. Records Required

Every retailer required to make a report and pay any tax under this chapter shall preserve such records of the gross receipts of that sale as are required under NDCC section 57-39.2-10.

#### Section 11. Corporate Officer, Governor and Manager Liability

Officers, governors or managers of any corporation or limited liability company required to remit taxes imposed by this chapter are personally liable for the failure of the corporation or limited liability company to file required returns or remit required payments. The dissolution of a corporation or limited liability company shall not discharge this liability. The sum due

for the liability may be assessed and collected pursuant to the provisions of this chapter for the assessment and collection of other liabilities. If the officers, governors or managers elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation or limited liability company must be required to make a cash deposit or post with the North Dakota Tax Commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond or undertaking must be in an amount equal to the estimated annual sales tax liability of the corporation or limited liability company.

#### Section 12. Dedication of Tax Proceeds

All revenues raised and collected under this article, less administrative expenses, shall be placed in a separate sales and use tax fund which shall be dedicated exclusively as follows:

As determined from time to time by resolution the city council in its sole discretion.

At the regular city council meeting of October of every even numbered year, the City Council shall review and if necessary adjust the dedication of the revenue collected under this article. Any adjustment made shall take effect in the following fiscal year.

#### Section 13. Compensation

City sales and use tax permit holders are allowed to retain a portion of their city tax collections or use tax obligation to help recover administrative expense. The compensation shall equal three percent (3%) of the City sales and use tax due, however, the deductions is limited to \$50.00 per month or \$150.00 per quarter. A tax return must be filed and paid in full by the scheduled due date or the compensation will be disallowed and the tax obligation will be subject to penalty and interest.

#### Section 14. Effective Date of Tax Changes

The tax rates as well as the refund of and dedication of those tax revenues that are listed in Sections 2, 3, 4, 5, 7 shall go into effect as of 12:01 AM on January 1, 2017, but changes in 2020 to Section 12 regarding dedication of tax revenues shall go into effect on January 1, 2021.