

CHAPTER I.

CITY GOVERNMENT - GENERAL PROVISIONS

ARTICLE I. THE ENACTING ORDINANCE

AN ORDINANCE ADOPTING THE REVISED ORDINANCES OF 1996, AND REPEALING ALL ORDINANCES PREVIOUSLY ADOPTED, WITH CERTAIN EXCEPTIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GWINNER, NORTH DAKOTA:

1-101. TITLE. This ordinance shall be known and cited as "The Revised Ordinances of the City of Gwinner of 1996."

1-102. ENACTMENT AND REPEAL. All ordinances or parts of ordinances of the City of Gwinner which are incorporated in this compilation, are hereby affirmed and re-enacted without interruption in their operation and effect, and all ordinances or parts of ordinances, except as hereinafter provided, which are not incorporated, re-affirmed, and re-enacted herein, are hereby in all things repealed. Provided, however, that all ordinances theretofore enacted which authorize the execution of the negotiable bonds of the City and create interest and sinking funds for the payment of such bonds, shall remain in full force and effect until the obligations thereby authorized have been fully paid and retired. Provided, further, that all ordinances heretofore enacted which create special improvement districts shall remain in full force and effect. Provided further, that all ordinances heretofore enacted which give franchises to individuals, associations, or corporations shall remain in full force and effect.

1-103. CONSTRUCTION. All of the provisions of this ordinance are to be construed according to the fair import of their terms with a view to effecting its objects and promoting justice.

1-104. INVALIDITY OF PART. If any section, sub-section, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of any other section, sub-section, sentence, clause, phrase, or portion thereof. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more other sections, sub-sections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

1-105. TAKING EFFECT. This ordinance shall be in full force and effect from and after its final passage and its publication in book form, by authority of the City Council, and without publication of the penalty clause thereof in the official newspaper.

1-106. CONSTRUCTION OF ORDINANCES. In the construction of all ordinances now in force, or which may hereafter be in force, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the said City Council, or repugnant to the context of the said ordinance; that is to say:

1. Words importing the singular number may extend and be applied to several persons or things, and words importing the plural number may include the singular.
2. Words importing the masculine gender may be applied to feminine.
3. The words "persons" or "person", as well as all words referring to or importing persons, may extend and be applied to bodies politic and corporate as well as to individuals.
4. Words in the present tense include the future.
5. All general provisions, terms, phrases, and expressions shall be liberally construed, in order that the true intent and meaning of the City Council may be fully carried out.
6. The time within which an act provided by ordinance is to be done shall be computed by excluding the first day and including the last, unless the last is Sunday, and then it shall also be excluded.
7. The word "oath" shall be deemed to include an affirmation, and the word "sworn" shall be construed to mean also the word "affirm".
8. The word "court" when used in any ordinance, shall be construed to mean any court of competent jurisdiction, whether municipal, magistrate, justice of the peace or court of record.
9. When in any ordinance an act shall be required to be done within a "reasonable time" or upon a "reasonable notice", such reasonable time or reasonable notice shall be deemed to mean such time only as may be necessary for the prompt execution of such duty or compliance with such notice.
10. The word "Sunday" shall be construed to include the time from midnight to midnight.
11. All rules of construction not herein specially defined shall be the same as near as may be, as are prescribed by the code of North Dakota, as applicable to the interpretation of the laws of North Dakota.

ARTICLE II. ORDINANCES - PROCEDURE

1-201. WHEN YEA AND NAY VOTE TO BE TAKEN: SALE OF CITY PROPERTY, VOTE REQUIRED FOR. The yeas and nays shall be taken by the City Council upon the passage of all ordinances and on all propositions to create any liability against the City or for expenditure or appropriation of money, and, in all other cases, at the request of any member, which shall be entered on the journal of its proceedings, and the concurrence of a majority of all the members elected shall be necessary to the passage of any such ordinance or other matter which shall come before it for decision, except as otherwise provided by law or ordinance. It shall require a two-thirds (2/3) vote of all the members elected to sell any city property where the value is more than One Hundred Dollars (\$100.00).

1-202. VOTE, RECONSIDERING OR RESCINDING OF. No vote of the City Council shall be reconsidered or rescinded at a special meeting unless, at such special meeting, there is present as large a number of members as was present when such vote was taken.

1-203. ORDINANCES, HOW PASSED, SIGNED AND ATTESTED. All ordinances shall be read twice, and the second reading shall not be had in less than one (1) week after the first reading; and after such first reading, before their final passage, such ordinances may be amended, and shall then be put upon their second reading and final passage; and, if passed by the City Council, shall be signed by the Mayor and attested by the City Auditor.

1-204. ORDINANCE RECORD. The City Auditor shall make and keep a full and correct record of all the proceedings of the City Council, and of all ordinances passed and made by them and of the time and manner of passing, and publication of such ordinances and orders, in a book or record to be provided for that purpose, purporting to be the record of the City of Gwinner.

1-205. ORIGINAL ORDINANCES. The original of all ordinances passed by the said City Council shall be kept on file and preserved in the office of the City Auditor, and he may correct any errors in the numbering of any chapter or section of any ordinance and insert the proper number; and he may insert words in brackets, or supply with brackets words omitted by clerical mistake. He shall attend to all the printing of ordinances, and see that they are correctly and properly printed and published.

ARTICLE III. ORDINANCES - VIOLATION

1-301. GENERAL PENALTIES. In case no other specific penalty is prescribed for the violation of any section or provision of any article of this ordinance, any person found guilty of violating the same shall be punished by a fine of not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for not to exceed thirty (30) days, or both such fine and imprisonment in the discretion of the Court; the Court to have power to suspend said sentence and to revoke the suspension thereof.

1-302. COST OF PROSECUTION. In each and every case of a conviction of a violation of any of the provisions of this ordinance or any part thereof, and where a fine is imposed, the cost of prosecution shall be added to such fine as a part of the punishment.

1-303. HARD LABOR; AUTHORIZED. When any person is convicted before the Municipal Judge for the violation of any provisions of this ordinance, and is sentenced to imprisonment either on account of failure to pay the fine or otherwise, said Municipal Judge may order and sentence such offender to hard labor on the public streets of the city or any public works in said City for the full term of said imprisonment, and the said

sentence shall be carried into execution under the direction of the Chief of Police of this City.

1-304. SAME: REFUSAL TO WORK IN CONTEMPT OF COURT. Any person refusing to perform manual labor in accordance with the sentence of the Court, shall be deemed in contempt of Court and shall be punished accordingly. No credit shall be allowed such person on account of such fine and cost for the day or days that such person refuses to perform manual labor in accordance with the sentence of the Court.

1-305. MAYOR MAY RELEASE PRISONERS. The Mayor of the City may at any time release any persons imprisoned for the violation of any provision of this ordinance, and shall report such release, with the reason therefore, to the City Council at its first session thereafter.

1-306. PRISONERS, BOARD AND EXPENSE OF. All City prisoners shall be boarded by and at the expense of the City, and the Chief of Police shall provide and furnish such board rendering his bill therefore to the City Council, at actual cost.

1-307. PUNISHMENT OF VIOLATORS UPON CONVICTION. Any person convicted before the Municipal Judge of the City of Gwinner of an offense against any of the ordinances of the City of Gwinner shall be punished as may be regulated by such ordinance, except as is hereinafter provided.

1-308. FINES NOT TO BE REMITTED. Under no circumstances shall such Municipal Judge remit fines or penalties or payment of costs.

1-309. DEFERRING OR SUSPENDING SENTENCE, COMMITMENT. Such Municipal Judge may, in his discretion, upon the conviction of any person of any offense against any of the ordinances of the City of Gwinner, then and there impose a sentence of imprisonment as may be regulated by such ordinances, but defer imposition of sentence or suspend the sentence imposed on such person; and may, during such period, allow the defendant to go upon his own recognizance, or upon such bail as may be regulated by law or the ordinances of said City; and may, in his discretion, at or before the expiration of such period have the defendant brought before him and commit such defendant or cause such sentence of imprisonment to be then and there imposed and executed in like manner, so far as applicable, as may be provided by law or the ordinance in cases where the commitment and imposition of the sentence of imprisonment is not deferred or suspended and may then and there forthwith commit such defendant and require that such sentence of imprisonment be executed and carried out.

1-310. PREVIOUS SECTIONS NOT TO BE REPEALED BY IMPLICATION. Sections 1-307 to 1-309 inclusive shall not be repealed by implication and shall be made effective where applicable to existing ordinances and to all ordinances hereafter enacted unless, by the express terms thereof, this ordinance shall be repealed in

whole or in part; and, in that event, only as to such part as may hereafter be expressly repealed.

1-311. PREVIOUS SECTIONS TO BE LIBERALLY CONSTRUED. Sections 1-307 to 1-309 inclusive are enacted in furtherance of the ends of justice, and to enable the Municipal Judge in proper cases to further the ends of justice. Sections 1-307 to 1-309 inclusive shall be given a liberal construction by all Courts. Any person who accepts the benefits or indulgences extended to him pursuant to the provisions hereof, shall be deemed to have waived all objections to the validity hereof. All objections not filed with the Municipal Judge at the time of the proceedings taken to which objections might be entered, shall be deemed waived.

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