TITLE I.

CITY GOVERNMENT - GENERAL PROVISIONS

CHAPTERS:

1-01. The Enacting Ordinance.
1-02. Ordinances.
1-03. City Council.
1-04. Appointive Officers.
1-05. Municipal Elections.
1-06. Civil Defense.
1-07. Disposal of City Property.
1-08. Municipal Court.
1-09. Municipal Budget Procedures.
1-10. Sales and Use Tax.

CHAPTER 1-01

THE ENACTING ORDINANCE.

SECTIONS:

1-0101. Title of Ordinances.
1-0102. Repeal--Exceptions.
1-0103. Separability Provisions.
1-0104. Existing Licenses and Permits.
1-0105. New Licenses and Permits.

1-0101. **TITLE OF ORDINANCES.** The ordinances of the City of Harwood shall be known as the Revised Ordinances of 2006 of the City of Harwood, North Dakota.

1-0102. **REPEAL--EXCEPTIONS.** All ordinances of the City of Harwood adopted prior to October 1, 2006, are hereby repealed, except the following ordinances which shall continue in full force and effect regardless of the fact that they are herein omitted.

1. All existing ordinances or any part thereof creating contract obligations on the part of the City, which obligations shall remain binding until fully performed by the parties thereto.

2. All existing ordinances establishing special improvement districts.

3. All existing ordinances levying taxes for previous years which are still unpaid or for future years under the provisions of any law relating to the issuance of municipal bonds, warrants, certificates of indebtedness, or other municipal obligations, whether general or special.

4. All salary and appropriation ordinances.

5. Any and all other ordinances adopted in said Revised Ordinances of 2006 by reference, although the same are not set forth in full therein.

6. All existing ordinances establishing, extending, or reducing the city limits of the City and all existing ordinances by which the zoning of any area has been established or modified.

7. The incorporation herein of any ordinances of the City granting franchises to individuals, associations, or

corporations shall not operate to repeal the same in their original form nor to extend the term of any franchise beyond that permitted by law or fixed in the ordinances granting the same which is re-enacted herein.

1-0103. **SEPARABILITY PROVISIONS.** If any section, subsection, sentence, clause or phrase of these ordinances 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, subsection, sentence, clause, phrase, or portion thereof. The City Council hereby declares that it would have passed these ordinances and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

1-0104. **EXISTING LICENSES OR PERMITS.** All licenses and permits issued prior to the date on which this ordinance becomes effective shall continue in force for the remainder of the term for which the same were issued, without additional fees, but all licensees and permittees shall be governed by the provisions of the Revised Ordinances of 2006 of the City of Harwood, North Dakota, for the remainder of the terms of said licenses and permits in the same manner and to the same extent as if said licenses and permits had been issued under the provisions of the Revised Ordinances of 2006.

1-0105. **NEW LICENSES AND PERMITS.** In the case of any license or permit not heretofore required and appearing for the first time in the Revised Ordinances of 2006 of the City of Harwood, North Dakota, such license or permit shall be secured on or before the first day of the first month following the effective date of this ordinance, and the first fee therefor shall be prorated for the remainder of the term thereof on a monthly basis, provided that the minimum fee for any such new license or permit shall be $10.00.

CHAPTER 1-02

ORDINANCES

SECTIONS:

1-0201. Voting Record.
1-0202. Reconsideration or Rescinding Vote.
1-0203. Procedure in Passing Ordinances.
1-0204. Publication.
1-0205. Enactment and Revision of Ordinances.
1-0206. Effective Date.
1-0207. Effect of Repeal.
1-0208. Interpretation - Construction.
1-0209. Singular - Plural - Gender - Interpretation.
1-0210. Constitutionality - Ordinances - Construction.
1-0211. Penalty for Violation.

1-0201. **VOTING RECORD.** The yeas and nays must be taken by the governing body upon the passage of all ordinances and on all propositions to create any liability against the City or for the expenditure or appropriation of money, and, in all other cases, at the request of any member, which votes must be entered on the journal of its proceedings. A majority of all the qualified and existing members of the Council must concur on the passage of any ordinance and in the creation of any liability against the City and for the expenditure or appropriation of money. For purposes of this section, and for all other votes required by the ordinances of the City of Harwood or the State of North Dakota, any member of the City Council or Board of Adjustment who, by reason of a stated conflict of interest abstains from voting, must not be considered to be a qualified or existing member of the City Council or Board of Adjustment. A Member of the City Council who does not abstain but simply remains silent when the roll call vote is taken, shall be deemed to have voted yea, and a record of yea shall be entered in the journal. For all other matters not covered in this section and not otherwise covered by ordinance or state statute, passage of a motion or resolution shall be by a majority of existing and qualified Council members present at a meeting at which a quorum is present.

1-0202. **RECONSIDERATION OR RESCINDING VOTE.** No vote of the governing body 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.

1-0203. **PROCEDURE IN PASSING ORDINANCES.** 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 governing body, shall be signed by the Mayor and attested by the City Auditor.

1-0204. **PUBLICATION.** The title and penalty clause of each ordinance, imposing any penalty, fine or imprisonment for its violation, after its final adoption, shall be published in one (1) issue of the official newspaper of the City.

1-0205. **ENACTMENT AND REVISION OF ORDINANCES.** The executive officer of a municipality may appoint, by and with the advice and consent of the governing body of the municipality, one or more competent persons to prepare and submit to the governing body for its adoption or rejection, an ordinance for the revision or amendment of existing ordinances or for the enactment of new and additional ordinances for such municipality. The attorney for the municipality, if it has an attorney, shall be appointed as one of the persons to prepare and submit such ordinance. The compensation of the revisor or revisors, including that of the attorney, shall be determined by the governing body and shall be paid out of the municipal treasury. Such revision, including any additional ordinances and amendments to existing ordinances contained therein, may be passed as a single ordinance and may be published in pamphlet or book form, by and under the authority of the governing body of the municipality, and shall be valid and effective without publication in a newspaper or posting, Section 1-0204 of this chapter notwithstanding.

1-0206. **EFFECTIVE DATE.** Ordinances adopted and requiring publication shall take effect and be in force from and after publication unless otherwise provided. Ordinances not requiring publication shall take effect and be in force from and after final approval unless otherwise provided.

1-0207. **EFFECT OF REPEAL.** When any ordinance repealing a former ordinance, clause or provision, shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided.

1-0208. **INTERPRETATION - CONSTRUCTION.** For the purpose of interpretation and construction of any ordinance, the term "person" includes, where relevant or not otherwise indicated, corporations, unincorporated associations, or other legal entities.

1-0209. **SINGULAR - PLURAL - GENDER - INTERPRETATION.** For the purpose of interpretation of any ordinance, where relevant or not otherwise indicated, words used in the singular include the plural,

and the plural, the singular and words in the masculine gender include feminine and neuter genders.

1-0210. **CONSTITUTIONALITY - ORDINANCES - CONSTRUCTION.** If any section, subsection, sentence, clause or phrase of any 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, subsection, sentence, clause, phrase, or portion thereof.

1-0211. **PENALTY FOR VIOLATION.** Any violation of an ordinance of the City of Harwood shall be an infraction unless another penalty is specifically provided for the violation in these ordinances, or unless state law defines an offense in language similar to the ordinance as a class B misdemeanor, in which case the violation of the ordinance shall be penalized as a class B misdemeanor. An infraction may be punished by a maximum fine of $500. The Municipal Judge shall have the authority to establish the penalty for each infraction which is an offense up to a maximum of $500. The Court shall have discretion within the $500, even if the ordinance incorporates a specific section of the State Code and the State Code sets a different penalty for violation of that section. Any person convicted of an infraction who has, within one year prior to the commission of the infraction of which he was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint or citation shall specify that the offense is a misdemeanor.

A class B misdemeanor may be punished by a maximum fine of $1,000, or 30 days imprisonment, or both.

CHAPTER 1-03

CITY COUNCIL

SECTIONS:

1-0301. Meetings: Regular Day Held.
1-0302. Meetings: Regular Time.
1-0303. Meetings: Special, How Called.
1-0304. Meetings: Special Notice.
1-0305. Meetings: Regular and Special and Place Held.
1-0306. Salaries of City Council Members.

1-0301. **MEETINGS: REGULAR DAY HELD.** The City Council of the City of Harwood shall meet in regular meetings on the first (1st) Monday of each month.

1-0302. **MEETINGS: REGULAR TIME.** The time of the regular meetings shall be as determined by the City Council by resolution.

1-0303. **MEETINGS: SPECIAL, HOW CALLED.** The City Council of the City of Harwood may have special meetings at any time. Said special meeting may be called by the Mayor or by any two (2) members of the City Council.

1-0304. **MEETINGS: SPECIAL NOTICE.** Written notice of any special meeting shall be given to each member of the Board.

1-0305. **MEETINGS: REGULAR AND SPECIAL AND PLACE HELD.** All meetings shall be held at the Community Center in the City of Harwood, North Dakota.

1-0306. **SALARIES OF CITY COUNCIL AND MAYOR.** The salary of each member of the City Council shall be no greater than the maximum amount allowed by the laws of the State of North Dakota as may be determined from time to time by resolution of the City Council.

CHAPTER 1-04

APPOINTIVE OFFICERS

SECTIONS:

1-0401. Appointive Officers.
1-0402. Term of Appointive Officers, Oath, Bond.
1-0403. Removal.
1-0404. Salaries.
1-0405. Administrative Policy and Procedures.

1-0401. **APPOINTIVE OFFICERS.** At the first meeting after the qualification of its members, or as soon thereafter as possible, the City Council may appoint the following officers: Auditor, Treasurer, City Attorney, City Engineer, City Assessor, one or more assessors, City Health Officer, Chief of Police, Chief of Fire Department, one or more policemen, Superintendent of Streets, Superintendent of Water and Sewage Utilities, Housing Coordinator, and such other officers and boards as the City Council may deem necessary. The City Council by majority vote may dispense with any appointive office and provide that the duties thereof shall be performed by other officers or boards, by the City Council, or by a committee.

1-0402. **TERM OF APPOINTIVE OFFICERS, OATH, BOND.** The term of all appointive officers shall begin on May 1st after the regular election of members of the City Council and shall continue for a term of two (2) years and until their successors have been appointed and qualified. Any person appointed to fill a vacancy shall hold his office for the unexpired term unless appointed as an "acting officer." An "acting officer" shall serve at the pleasure of the governing body. Before entering upon the duties of his office, each appointed officer shall take the oath of office and give the bond required by law.

1-0403. **REMOVAL.** Appointive officers may be removed and any vacancy may be filled in the manner provided by law. "Acting officers" may be removed at any time by the governing body.

1-0404. **SALARIES.** The salary of City appointive officers, except as otherwise provided by law, shall be in such sums and amounts as may be, by resolution of the governing body, fixed from time to time.

1-0405. **ADMINISTRATIVE POLICY AND PROCEDURES.** 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 governing body.

2. Be immediately responsible to the governing body for the effective administration of his department and all activities assigned thereto.

3. Keep informed as to the latest practices in his particular field and shall inaugurate with approval of the governing body such new practices as appear to be of benefit and service to the public.

4. Submit such reports of activities of his department as the governing board may request.

5. Be responsible for the proper maintenance of all City property and equipment used in his department.

6. Establish and maintain records in sufficient detail to furnish all information needed for proper control of department activities and to form a basis for reports to the governing board.

7. Cooperate with other officers, departments and employees.

8. Have power to direct and supervise all subordinates under him.

CHAPTER 1-05

MUNICIPAL ELECTIONS

SECTIONS:

1-0501. Qualifications of Electors.
1-0502. Elections - Provisions Governing.
1-0503. Compensation of Election Officers.

1-0501. **QUALIFICATIONS OF ELECTORS.** Every resident of the City of Harwood who is qualified to vote therein at general elections may vote in all municipal elections held therein. Each person shall vote in the precinct of which he is a resident.

1-0502. **ELECTIONS - PROVISIONS GOVERNING.** Municipal elections in the City of Harwood shall be conducted in accordance with the statutes of the State of North Dakota which relate to elections in cities with a council form of government.

1-0503. **COMPENSATION OF ELECTION OFFICERS.** Each inspector, judge or clerk of any City election, for services performed by that person at such election shall receive as compensation therefor an hourly wage equal to the federal minimum wage then in effect, or such higher amount as may be established by resolution of the City Council prior to such election.

CHAPTER 1-06

CIVIL DEFENSE

SECTIONS:

1-0601. Policy and Purpose.
1-0602. Creation of Municipal Civil Defense.
1-0603. Director, Powers and Duties.
1-0604. Operational Survival Plan.
1-0605. Personnel.
1-0606. Expenses and Contract.
1-0607. Immunity.

1-0601. **POLICY AND PURPOSE.** Because it has been forcefully emphasized that government at every level has the inescapable responsibility to take practical and sensible measures to minimize loss of life in the event of nuclear attack, sabotage or other hostile action and because of the possibility of natural disasters, and in order to take all possible actions to protect the lives and health of the people, establish continuity of government and preserve property of this City, it is hereby declared necessary:

1. To establish local civil defense;

2. Provide for continuity of government during an emergency with the maximum use of services, equipment, supplies and facilities of existing department offices and agencies of this City;

3. To cause to be written an operational survival plan for the mobilization and direction of the civil populace of this City to save the maximum number of lives and minimize property damage in an enemy attack or natural disaster;

4. To provide for the exercise of necessary powers during civil defense missions;

5. To provide for the rendering of mutual aid between this City and other political subdivisions and of other States with respect to carrying out civil defense functions.

It is further declared to be the purpose of this chapter to cause all civil defense functions of this City to be coordinated to the maximum extent with the functions of the Federal Government, of this State and of other States, of Cass County and other

localities, and of private agencies of every type, to the end that the most effective preparations and use may be made of the nation's manpower, resources and facilities for dealing with any disaster that may occur.

1-0602. **CREATION OF MUNICIPAL CIVIL DEFENSE.** There is hereby created a local municipal civil defense of the City of Harwood hereinafter referred to as Harwood Civil Defense. The Harwood City Council shall retain the governing authority of the City with the Mayor serving as Chairman. The Mayor may appoint a Director of Civil Defense for the City of Harwood who may or may not be a commissioned member, who shall be responsible to the Council. The Harwood Civil Defense Director is charged with the responsibility of plans and operations and support missions as directed by higher authority. Other activities and functions are hereinafter specified. The said Director shall be appointed for an indefinite term and may be removed by the Mayor.

1-0603. **DIRECTOR, POWER AND DUTIES.** The Director, with the consent of the Mayor, shall represent the City on any National, Regional, State or County civil defense activities. He shall execute and submit all material and sign all documents in behalf of civil defense which do not obligate funds other than those budgeted for civil defense.

The Director shall develop mutual aid agreements with other political subdivisions for reciprocal civil defense aid and assistance in a civil defense emergency to great to be dealt with unassisted, and he shall present such agreements to the Council for concurrence. Such agreements shall be consistent with the County and State operational survival plan. Any mutual aid arrangement with a political subdivision of another State shall be subject to the approval of the Governor or the State Civil Defense Director.

The Director shall utilize the personnel, services, equipment, supplies and facilities of existing departments and agencies of the City to the maximum extent practicable. The officers and personnel of all such departments and agencies shall cooperate with and extend such service and facilities to local civil defense and to the Governor upon request. The head of each department and agency, in cooperation with and under the direction of the Director, shall be responsible for the planning and programming of such civil defense activities as will involve the utilization of the facilities of his department or agency.

The Director shall direct and coordinate the general operations of all local civil defense during a civil defense emergency in conformity with controlling regulations of the City Council and instructions of Cass County and State Civil Defense

authorities. The heads of departments and agencies shall be governed by his orders in respect thereto.

1-0604. **OPERATIONAL SURVIVAL PLAN.** To institute an organized effort to mobilize and direct the civil populace during civil defense emergencies, an adequate civil defense operational survival plan for the City of Harwood shall be accomplished by the civil defense director.

The operational survival plan will be coordinated with the Cass County and the State of North Dakota survival plans. It shall be the mission of said plan to accomplish the following:

1. Provide for continuity of government during an emergency with the maximum use of services, equipment, supplies and facilities.

2. Protect the people and the essential facilities of Harwood from effects of enemy attack and/or natural disaster.

3. Control the movements or evacuation of traffic, through, within and/or out of the City in accordance with instructions of higher authority.

4. Provide the forces, supplies and equipment to aid the people and rehabilitation of facilities of attacked or damaged areas.

Upon completion of the Harwood operational survival plan, the same shall be rendered to the City Council for approval or further recommendations.

1-0605. **PERSONNEL.** The City Council is authorized to employ such persons as may be necessary to carry out the functions of civil defense. Persons so employed shall be subject to all laws, ordinances and regulations now existing in and governing the employees of this City.

1-0606. **EXPENSES AND CONTRACT.** The civil defense Director shall have no right to expend public funds of the City, other than those allowed by budgets, without prior approval of the City Council, nor shall he have any right to bind the City by contract, agreement or otherwise without prior and written approval of the City Council.

1-0607. **IMMUNITY.** All functions hereunder and all other activities relating to civil defense are hereby declared to be governmental functions. The officers, agents or representatives of

the State or any political subdivision thereof, shall not be liable for personal injury or property damage sustained by any person appointed or acting as a civilian defense worker, or member of any agency engaged in civilian defense activity. The foregoing shall not affect the right of any person to receive benefits or compensation to which he might otherwise be entitled under the Workmen's Compensation Law, or any pension law or any act of the United States.

No officer or employee nor any civilian defense worker or member of any agency engaged in any civil defense activity, complying with or attempting to comply with this chapter or the laws of the State of North Dakota or any order, rule or regulation promulgated pursuant to the provisions of this chapter or the laws of the State of North Dakota, or pursuant to any ordinance relating to any precautionary measure enacted by any political subdivision of the State, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity.

CHAPTER 1-07

DISPOSAL OF CITY PROPERTY

SECTIONS:

1-0701. Sale of Personal Property.
1-0702. Sale of Real Property.
1-0703. Sale of Abandoned or Unclaimed Personal Property.
1-0704. Lease of Public Buildings.
1-0705. Lease of Personal Property or Real Property Other Than Buildings.

1-0701. **SALE OF PERSONAL PROPERTY.**

1. Whenever any personal property owned by the City of Harwood is no longer required for a public purpose and has a value of $500 or less, it may be offered for sale by the City Auditor, who may exercise his discretion as to the method of sale, and whether such sale shall be public or private.

2. Whenever any personal property owned by the City of Harwood is no longer required for a public purpose and is valued in excess of $500, it may be offered for sale by the City Council, who may exercise its discretion as to the method of sale, and whether such sale shall be public or private. Provided, however, when the value of the personal property is estimated to be in excess of $2,500, the property must be sold at a public sale, the exact method of sale to be determined by the City Council. When property is to be traded in as part of the purchase price of a new purchase, no public sale shall be required.

1-0702. **SALE OF REAL PROPERTY.**

1. Real property belonging to the municipality shall be sold only as approved by a two-thirds (2/3rds) vote of all members of the City Council.

2. Instruments affecting such sale shall be valid only when duly executed by the Mayor and attested by the City Auditor.

3. When the real property to be disposed of is estimated by the Council to be of a value of less than $2,500, such

property may be sold by the City either by private or public sale, with the exact method of sale to be determined by the City Council. For real property estimated by the City Council to be of value of $2,500 or more, such sale must be by public sale pursuant to the provisions of 40-11-04.1 N.D. Cent. Code, unless the procedures set out in 40-11-04.2 N.D. Cent. Code is followed.

4. Bids for the purchase of real property belonging to the municipality, whether or not advertisement therefor has been made, shall be directed 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, or special meeting called for such purpose.

5. When specific statutory provisions contained in the North Dakota Century Code provide for a procedure which is in conflict with this section governing the sale of real property, this section shall not apply insofar as it is in conflict with such State law.

1-0703. **SALE OF ABANDONED OR UNCLAIMED PERSONAL PROPERTY.**

1. When personal property has been abandoned or left unclaimed upon the streets, alleys or other public ways of the City for a period exceeding ten (10) days, and, after holding such property for a period of not less than sixty (60) days, the City Auditor, or Chief of Police may sell the same at a public sale after a notice is published in the official newspaper of the City at least ten (10) days before the sale. The City Auditor or Chief of Police may exercise their discretion as to the method of sale.

2. If, after a vehicle which has been impounded or removed pursuant to Section 13-1625, the vehicle is not reclaimed and redeemed by the owner or person lawfully entitled to possession thereof within sixty (60) days after the vehicle is impounded, then the vehicle may be sold in the manner provided in subsection 1. The notice of such sale shall specify a description of the property to be sold, and the time and place of such sale. Any sale may be postponed or discontinued by public announcement at the time of sale when there are no bidders, or when the amount offered is grossly inadequate, or for other reasonable cause. The City may be a purchaser of any or all property at such sale. The amount received at such

sale shall be first applied to costs and expenses of the sale, next to satisfaction of any fines, fees, costs or restitutions outstanding which formed the basis for the impoundment or removal of the vehicle, and finally to the City general fund.

1-0704. **LEASE OF PUBLIC BUILDINGS.** The City Council may permit the use or lease of any public building or part thereof for any legal purpose under the terms and conditions as determined by the City Council, which may include lease terms in excess of two (2) years. Notice of the intent to lease the building shall be published in the official newspaper of the City once each week for two consecutive weeks, with the last publication being at least ten (10) days in advance of the date set for the lease. Such lease shall be to a responsible party offering the highest return to the municipality whose use or occupation of the building shall not interfere with the use of such building for public purposes, if needed. The City Council reserves the right to reject any and all bids for the lease. Provided, that this section shall not apply to leases entered into pursuant to Chapter 40-57 N.D. Cent. Code.

1-0705. **LEASE OF PERSONAL PROPERTY OR REAL PROPERTY OTHER THAN BUILDINGS.** The City Council may lease personal property owned by the City, or real property, other than public buildings, owned by the City. The City Council may determine in each case the terms and conditions of the lease, and whether or not to publicly advertise the lease of the personal property or real property.

CHAPTER 1-08

MUNICIPAL COURT

SECTIONS:

1-0801. Convening of the Court.
1-0802. Place convened.
1-0803. Jurisdiction.
1-0804. Penalties - Fines.
1-0805. Sentencing Alternatives.
1-0806. Factors to be Considered in Sentencing.
1-0807. Special Sanctions for Organizations.
1-0808. Imposition of Fine - Response to Non-payment.
1-0809. Incidents of Probation.
1-0810. Conditions of Probation - Revocation.
1-0811. Restitution or Reparation - Procedures.
1-0812. Merger of Sentence - Sentencing for Multiple Offenses.
1-0813. Failure to Pay Fine or Appear in Court -- Criminal Offense.

1-0801. **CONVENING OF THE COURT.** The municipal court of the City of Harwood shall convene at such time and for such duration as necessary to conduct and to transact the business of the municipal court.

1-0802. **PLACE CONVENED.** The municipal court of Harwood shall convene and sit at the Community Center in the City of Harwood, State of North Dakota, or such other place as may be designated by the Municipal Judge.

1-0803. **JURISDICTION.** The municipal court shall have such jurisdiction and authority as is authorized by the laws of the State of North Dakota.

1-0804. **PENALTIES - FINES.** The penalty or fine for violation of the provisions of the Harwood Municipal Ordinances shall be as set forth in Section 1-0211.

1-0805. **SENTENCING ALTERNATIVES.**

1. Every person convicted of an offense who is sentenced by the court shall be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the ordinance defining the offense:

   a. Payment of the reasonable costs of his prosecution.
   b. Probation.

c. A term of imprisonment, including intermittent imprisonment.
d. A fine.
e. Restitution for damages resulting from a commission of the offense.
f. Restoration of damaged property.
g. Work detail.
h. Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect.

Sentences imposed under this subsection shall not exceed in duration the maximum sentences provided in Section 1-0804, or as provided specifically in an ordinance defining an offense.

This subsection shall not be construed as not permitting the unconditional discharge of an offender following conviction. Sentences under subdivisions (e) or (f) shall be imposed in the manner provided in Section 1-0805. This subsection shall not be construed to prohibit utilization of suspension of sentence, nor shall this subsection limit the conditions which can be imposed on a probationer under Section 1-0805.

2. Credit against any sentence to a term of imprisonment shall be given by the court to a defendant for all time spent in custody as a result of the criminal charge for which the sentence was imposed, or as a result of the conduct by which such charge was based. "Time spent in custody" shall include time spent in custody in a jail or mental institution for the offense charged, whether that time is spent prior to trial, during trial, pending sentence, or pending appeal.

3. A court may, at any time prior to the time custody of a convicted offender is transferred to a penal institution or institution for treatments, suspend all or a portion of any sentence imposed pursuant to this section.

4. A court may at any time prior to imposition of sentence, refer a person convicted of driving while under the influence of an intoxicating liquor or a narcotic drug, to an approved treatment facility for diagnosis. Upon receipt of the result of this diagnosis, the court may impose a sentence as prescribed in Section 1-0805 of this chapter or it may sentence the person to treatment in a facility approved by the State's Division of Alcoholism and Drug Abuse.

5. All sentences imposed shall be accompanied by a written statement by the court setting forth the reasons for imposing a particular sentence. The statement shall become part of the record of the case.

6. If an offender is sentenced to a term of imprisonment, that term of imprisonment commences at the time of sentencing, unless, upon motion of defendant, the Court orders the term to commence at some other time.

1-0806. **FACTORS TO BE CONSIDERED IN SENTENCING.** The following factors, or the converse thereof where appropriate, while not controlling the discretion of the court, shall be accorded weight in making determinations regarding the desirability of sentencing an offender to imprisonment:

1. The defendant's criminal conduct neither caused nor threatened serious harm to another person or his property.

2. The defendant did not plan or expect that his criminal conduct would cause or threaten serious harm to another person or his property.

3. The defendant acted under strong provocation.

4. There were substantial grounds which, though insufficient to establish a legal defense, tend to execute or justify the defendant's conduct.

5. The victim of the defendant's conduct induced or facilitated its commission.

6. The defendant has made or will make restitution or reparation to the victim of his conduct for the damage or injury which was sustained.

7. The defendant has no history of prior delinquency or criminal activity, or has led a law abiding life for a substantial period of time before the commission of the present offense.

8. The defendant's conduct was the result of circumstances unlikely to recur.

9. The character, history, and attitudes of the defendant indicate that he is unlikely to commit another crime.

10. The defendant is particularly likely to respond affirmatively to probationary treatment.

11. The imprisonment of the defendant would entail undue hardship to himself or his dependents.

12. The defendant is elderly or in poor health.

13. The defendant did not abuse a public position of responsibility or trust.

14. The defendant cooperated with law enforcement authorities by bringing other offenders to justice, or otherwise cooperated.

Nothing herein shall be deemed to require explicit reference to these factors in a pre-sentence report or by the court at sentencing.

1-0807. **SPECIAL SANCTIONS FOR ORGANIZATIONS.** When an organization is convicted of an offense, the court may, in addition to any other sentence which may be imposed, require the organization to give notice of its conviction to the persons or class of persons ostensibly harmed by the offense, by mail or by advertising in designated areas or by designated media or otherwise.

1-0808. **IMPOSITION OF FINE - RESPONSE TO NON-PAYMENT.**

1. The court, in making a determination of the propriety of imposing a sentence to pay a fine, shall consider the following factors:

   a. The ability of the defendant to pay without undue hardship.
   b. Whether the defendant, other than a defendant organization, gained money or property as a result of commission.
   c. Whether the sentence to pay a fine will interfere with the defendant's capacity to make restitution.
   d. Whether a sentence to pay a fine will serve a valid rehabilitative purpose.

2. The court may allow the defendant to pay any fine or costs imposed in installments. When a defendant is sentenced to pay a fine or costs, the court shall not impose at the same time an alternative sentence to be served in the event that the fine or costs are not paid.

3. If the defendant does not pay any fine or costs imposed, or make any required partial payment, the court, upon motion of the prosecuting attorney or on its own motion, may issue an order to show cause why the defendant should not be imprisoned for nonpayment. Unless the defendant shows that his default is excusable, the court may, after hearing, commit him to imprisonment until the fine, or costs, or both, are fully paid or discharged by labor as provided in N.D. Cent. Code § 40-18-12.

The court may not commit a person under this section when the sole reason for his nonpayment is his indigency. An order of commitment under this subsection shall not be for a period in excess of thirty (30) days. As used in this subsection, "fine" does not include a fee established pursuant to Section 13-2209.

1-0809. **INCIDENTS OF PROBATION.**

1. Unless terminated as provided in subsection 2, the period during which a sentence to probation shall remain conditional and be subject to revocation is two (2) years.

2. The court may terminate a period of probation and discharge the defendant at any time earlier than that provided in subsection 1 if warranted by the conduct of the defendant and the ends of justice.

3. Notwithstanding the fact that a sentence to probation can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for all other purposes.

1-0810. **CONDITIONS OF PROBATION - REVOCATION.**

1. The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

2. When imposing a sentence to probation, the court may impose such conditions as it deems appropriate, and may include any one or more of the following:

   a. Work faithfully at a suitable employment or faithfully pursue a course of study or of

vocational training that will equip him for suitable employment;

b. Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose;

c. Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation;

d. Support his dependents and meet other family responsibilities;

e. Make restitution or reparation to the victim of his conduct for the damage or injury which was sustained, or perform other reasonable assigned work. When restitution, reparation, or assigned work is a condition of the sentence, the court shall proceed as provided in Section 1-0811;

f. Pay a fine imposed after consideration of the provisions of Section 1-0808;

g. Refrain from possessing a firearm, destructive device, or other dangerous weapon unless granted written permission by the court;

h. Refrain from excessive use of alcohol, or any use of narcotics or of another dangerous or abusable drug without a prescription;

i. Promptly notify the court of any change in address or employment;

j. Remain within the jurisdiction of the court, unless granted permission to leave by the court; and

k. Refrain from associating with known users or traffickers in narcotics, marijuana, or other controlled substances.

3. When a defendant is sentenced to probation, he shall be given a certificate explicitly setting forth the conditions on which he is being released.

4. The court may, upon notice to the probationer, modify or enlarge the conditions of a sentence to probation at any time prior to the expiration or termination of the period for which the sentence remains conditional. If the defendant violates a condition at any time prior to the expiration or termination of the period, the court may, pursuant to the procedure specified in N.D.R. Crim. P. 32(f), continue him on the existing sentence, with or without modifying or enlarging the conditions, or, if such continuation, modification, or enlargement is not appropriate, may impose any other sentence that was available under Section 1-0805 at the time of initial sentencing.

5. Jurisdiction over a probationer may be transferred from the court which imposed the sentence to another court of this state, with the concurrence of both courts. Retransfers of jurisdiction may also occur in the same manner. The court to which jurisdiction has been transferred under this subsection shall be authorized to exercise all powers permissible under this chapter over the defendant.

1-0811. **RESTITUTION OR REPARATION - PROCEDURES.**

1. Prior to imposing restitution or reparation as a sentence or condition of probation, the court shall hold a hearing on the matter with notice to the prosecuting attorney and to the defendant as to the nature and amount thereof. At or following the hearing, the court shall make determinations as to:

   a. The reasonable damages sustained by the victim or victims of the criminal offense, which damages shall be limited to fruits of the criminal offense and expenses actually incurred as a direct result of the defendant's criminal action;
   b. The ability of the defendant to restore the fruits of the criminal action or to pay monetary reparations, or to otherwise take action to restore the victim's property; and
   c. The likelihood that attaching a condition relating to restitution or reparation will serve a valid rehabilitational purpose in the case of the particular offender considered.

   The court shall fix the amount of restitution or reparation, which shall not exceed an amount the defendant can or will be able to pay, and shall fix the manner of performance of any condition or conditions of probation established pursuant to this subsection. Any payments made pursuant to such order shall be deducted from damages awarded in a civil action arising from the same incident. An order that a defendant make restitution or reparation as a sentence or condition of probation may, if the court directs, be filed, transcribed, and enforced by the person entitled to the restitution or reparation in the same manner as civil judgments rendered by the courts of this state may be enforced.

2. The court may order the defendant to perform reasonable assigned work as a condition of probation, which assigned

work need not be related to the offense charged, but must not be solely for the benefit of a private individual other than the victim.

1-0812. **MERGER OF SENTENCES - SENTENCING FOR MULTIPLE OFFENSES.**

1. Unless the court otherwise orders, when a person serving a term of commitment is committed for another offense or offenses, the shorter term or the shorter remaining term shall be merged in the other term. When a person on probation or parole for an offense committed in this state is sentenced for another offense or offenses, the period still to be served on probation or parole shall be merged in any new sentence of commitment or probation. When the court merges sentences under this subsection it shall forthwith furnish each of the other courts previously involved and the penal facility in which the defendant is confined under sentence with authenticated copies of its sentence, which shall cite the sentences being merged. If the court has imposed a sentence which is merged pursuant to this subsection, it shall modify such sentence in accordance with the effect of the merger.

2. A defendant may not be consecutively sentenced to more than one year.

1-0813. **FAILURE TO PAY FINE OR APPEAR IN COURT -- CRIMINAL OFFENSE.** If a defendant willfully fails to pay any part of any fines, fees, costs or restitution imposed by the Municipal Court of the City of Harwood, or if a defendant fails to appear for any scheduled court appearance before the Municipal Court of the City of Harwood, then, in addition to the procedures and penalties set forth in Section 1-0808(3), the defendant shall be guilty of an offense pursuant to this section. Any person convicted under this section is guilty of a class B misdemeanor, regardless of whether the offense for which the defendant failed to pay any fines, fees, costs or restitution, or for which the defendant failed to appear, is an infraction or a misdemeanor.

CHAPTER 1-09

MUNICIPAL BUDGET PROCEDURES

SECTIONS:

1-0901. Fiscal Year of Municipality.
1-0902. Preliminary Budget Statement.
1-0903. Contents of Preliminary Budget Statement.
1-0904. Notice of Preliminary Budget Statement.
1-0905. Hearing of Protests and Objections - Changes in Preliminary Budget - Preparation of Final Budget - Contents.
1-0906. Determination of Amount to be Levied.
1-0907. Certification of Levy.
1-0908. County Auditor to Extend Tax Levy.
1-0909. County Treasurer to Collect Municipal Taxes.
1-0910. Municipal Taxes Collected to be Credited to Appropriate Funds.
1-0911. Duration of Appropriations.
1-0912. Supplemental Appropriations.
1-0913. Emergency Appropriations.
1-0914. Reduction in Appropriations.
1-0915. Expenditures Made or Liabilities Incurred Beyond Appropriation - Joint and Several Liability of the Council.
1-0916. State's Attorney to Sue for Excessive Expenditures.
1-0917. Contracts Made Prior to Appropriation Prohibited.
1-0918. Payment of Accounts.

1-0901. **FISCAL YEAR OF MUNICIPALITY.** The fiscal year of the City of Harwood shall commence on the first day of January of each year and shall terminate on the thirty-first day of December of that same year.

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

1-0902. **PRELIMINARY BUDGET STATEMENT.** The City Auditor shall present to the City Council, annually on or before September 10 a proposed preliminary budget, from which the City Council shall make an itemized statement, known as the preliminary budget statement, showing the amounts of money which, in the opinion of the City Council, will be required for the proper maintenance, expansion, or improvement of the City during its upcoming fiscal year.

The provisions of North Dakota Century Code § 40-40-04 are referenced, but superseded by this section.

1-0903. **CONTENTS OF PRELIMINARY BUDGET STATEMENT.** The preliminary budget shall include a detailed breakdown of the estimated revenues and appropriations requested for the ensuing year for the general fund, each special revenue fund, and each debt service fund of the City. The revenue and expenditure items for the preceding year and estimates of the revenue and expenditures for the current year shall be included for each fund to assist in determining the estimated revenues and appropriation requested for the ensuing year. The budget shall also include any transfers in or out and the beginning and ending fund balance for each of the funds. The budget shall be prepared on the same basis of accounting used by the City for its annual financial reports.

The amount paid for salaries may be shown as a single line item expenditure in each fund. There shall be on file with the governing body and open to public inspection a detailed statement showing the names of all persons receiving salaries, the annual amount paid to each person, and the fund charged.

The budget may include an expenditure item for equipment and building replacement, the amount of which may not exceed the total of the anticipated reasonable costs of depreciation for the ensuing year, based on current costs, of all equipment and buildings. Proceeds and disbursements for capital purchases shall be segregated in the capital improvements fund. No expenditure may be paid from the equipment and building of funds segregated into the capital improvements fund except for equipment purchases and/or the purchase, construction or remodeling of buildings or structures for public use.

The provisions of North Dakota Century Code § 40-40-05 are referenced, but superseded by this section.

1-0904. **NOTICE OF PRELIMINARY BUDGET STATEMENT.** After the Council has approved the preliminary budget statement, the City Auditor shall give notice that:

1. The preliminary budget is on file in the office of the City Auditor and may be examined by anyone upon request.

2. The Council shall meet no later than October 7 at the time and place specified in the notice as prescribed by subsection 3 for the purpose of adopting the final budget and making the annual tax levy.

3. The Council shall hold a public session at the time and place designated in the notice of hearing, at which any taxpayer may appear and discuss with the Council any item of proposed expenditures or may object to any item or amount.

The notice must contain a statement of the total proposed expenditures for each fund in the preliminary budget, but need not contain any detailed statement of the proposed expenditures.

The notice must be published at least once, not less than six days prior to the budget hearing, in the official city newspaper.

The provisions of North Dakota Century Code § 40-40-06 are referenced, but superseded by this section.

1-0905. **HEARING OF PROTESTS AND OBJECTIONS - CHANGES IN PRELIMINARY BUDGET -PREPARATION OF FINAL BUDGET - CONTENTS.** The Council shall meet at the time and place specified in the notice and shall hear any and all protests or objections to the items or amounts set forth in the preliminary budget statement. At the hearing, the Council shall make any changes in the items or amounts shown on the preliminary budget statement as it may deem advisable except as limited in this chapter, and shall direct the preparation of the final budget, which must consist of the preliminary budget with the addition of columns showing:

1. The final appropriations for the various expenditure items specified in the preliminary budget statement. The final appropriation of any fund total may not exceed the total amount requested in the preliminary budget.

2. The estimated amount of unencumbered cash on hand at the end of the current year may not include cash or investments of the equipment replacement fund as provided in Section 1-0903.

3. The levy amount determined by subtracting the total resources from the total appropriations and cash reserve for each fund. The Council may increase the levy an additional five percent for delinquent tax collections.

4. The certificate of levy which includes a summary of the amount levied for each fund and the total amount levied.

The provisions of North Dakota Century Code § 40-40-08 are referenced, but superseded by this section.

1-0906. **DETERMINATION OF AMOUNT TO BE LEVIED.** After completing the final budget on or before October 7, the Council shall proceed to make the annual tax levy in an amount sufficient to meet the expenses for the ensuing year as determined at the budget meeting. In determining the amount required to be levied, the Council first shall ascertain its net current resources by adding the estimated revenue for the ensuing year, other than property taxes, any transfers in, and the estimated fund balance at the end of the current year. Then the Council shall ascertain its appropriation and reserve by adding the final appropriation for the ensuing year, any transfers out, and the cash reserve. The net current resources must be deducted from the appropriation and reserve and the balance shall be considered the amount that is required to be raised by taxation during the ensuing year.

The City Council shall direct an annual certification of mills levied based on the revenue requirements of the proposed budget in its entirety without regard to the specific dedications of mill levies to specific purposes as authorized and provided for in Article III, Section 2 of the Home Rule Charter of the City of Harwood. Total mills levied shall not exceed the total levies authorized by the state constitution and state statutes for cities under North Dakota Century Code Chapter 57-15, unless authorized by a vote of the City's electors.

The levy as finally adopted must be approved by a majority vote of the members of the Council and noted in the record of official proceedings.

The provisions of North Dakota Century Code § 40-40-08 are referenced, but superseded by this section.

1-0907. **CERTIFICATION OF LEVY.** Immediately after the completion of the final budget and the adoption of the annual tax levy by the Council in accordance with the provisions of this chapter, and in no case later than October 10, the City Auditor of the municipality shall send to the County Auditor two certified copies of the levy as adopted and two certified copies of the final budget.

The provisions of North Dakota Century Code § 40-40-10 are referenced, but superseded by this section.

1-0908. **COUNTY AUDITOR TO EXTEND TAX LEVY.** After the County Auditor has available the data showing the total taxable valuation of a municipality, the Auditor shall calculate the necessary tax rates to produce the sums called for in the final budget. If the Auditor finds that any amount or amounts called for in the levy cannot be produced by a tax rate within the limitation prescribed

by the laws of this state in accordance with the Home Rule Charter and the Ordinances of the City of Harwood, the Auditor shall reduce the amount so that it can be produced by a tax rate within legal limitations. The County Auditor shall extend the levy, including the levy for judgments against the municipality, upon the tax lists of the county for the current year against each description of real property and all personal property within the municipality in the same manner and with the same effect as other taxes are extended. The County Auditor shall notify the Council at once of any reductions made in the levy.

The provisions of North Dakota Century Code § 40-40-11 are referenced, but superseded by this section.

1-0909. **COUNTY TREASURER TO COLLECT MUNICIPAL TAXES.** The County Treasurer shall collect all municipal taxes, together with the interest and penalties thereon, if any, in the same manner as the general taxes are collected, and shall pay over to the City Auditor, on or before the tenth working day of each calendar month, all taxes so collected during the preceding month, with interest and penalties collected thereon.

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

1-0910. **MUNICIPAL TAXES COLLECTED TO BE CREDITED TO APPROPRIATE FUNDS.** The City Auditor shall apportion the amounts received for taxes from the County Treasurer and shall credit each fund with its proportion or share according to the final budget appropriations made by the Council. The County Treasurer, at the time of paying over such funds, shall furnish the City Auditor with a statement of the amount collected for each year separately, the allocation of mill levy taxes collected will be based on the current year budget appropriations; delinquent taxes, penalties and/or interest collected in excess of the budgeted amount will be receipted into the general fund.

The provisions of North Dakota Century Code § 40-40-14 are referenced, but superseded by this section.

1-0911. **DURATION OF APPROPRIATIONS.** The budget ordinance, as amended, is valid for one fiscal year; unexpended funds will remain in fund equity unless otherwise allocated by Council action. Appropriations for capital improvement, special assessment and or enterprise fund projects spanning multiple fiscal periods shall remain in effect until each such respective project is completed.

The provisions of North Dakota Century Code § 40-40-21 are referenced, but superseded by this section.

1-0912. **SUPPLEMENTAL APPROPRIATIONS.** In the event at fiscal year-end, revenues exceed expenses, the surplus amount may be deemed available for supplemental appropriation. Supplemental appropriations shall be prioritized, of non-recurring nature and included in the budget amendment process.

1-0913. **EMERGENCY APPROPRIATIONS.** To meet an emergency public need affecting life, health, property or the public peace, the City Council by adoption of a resolution declaring an emergency may by a majority vote approve an emergency appropriation. Any expenditures and or encumbrances resulting from the emergency declaration must be paid in full no later than the final day of the fiscal year. The Resolution authorizing any emergency expenditure must recite the facts showing the existence of an emergency.

The provisions of North Dakota Century Code § 40-40-18 are referenced, but superseded by this section.

1-0914. **REDUCTION IN APPROPRIATIONS.** In the event fiscal conditions lead to an unbalanced budget of expenses exceeding revenues, the Council may take action to amend the annual budget appropriation ordinance to reduce appropriations to available resources.

1-0915. **EXPENDITURES MADE OR LIABILITIES INCURRED BEYOND APPROPRIATION – JOINT AND SEVERAL LIABILITY OF THE COUNCIL.** Except as otherwise provided in Section 1-0913, no municipal expenditure may be made nor liability incurred, and no bill may be paid for any purpose in excess of the appropriation made therefore in the final budget. Expenditures made, liabilities incurred, or warrants issued in excess of the appropriations are a joint and several liability of the members of the governing body who knowingly or negligently authorized the making, incurring, or issuing thereof or who were present when they were authorized and did not vote against authorizing the same.

The provisions of North Dakota Century Code § 40-40-15 are referenced, but superseded by this section.

1-0916. **STATE'S ATTORNEY TO SUE FOR EXCESSIVE EXPENDITURES.** Upon good and sufficient information laid before him by any taxpayer in the municipality or obtained from any other source, the State's Attorney of the county in which the municipality lies shall bring suit to recover from the members of the governing body, jointly and severally, the amount of expenditures, payments, or

warrants knowingly or negligently made in excess of the amount shown in any group of the final budget as amended.

The provisions of North Dakota Century Code § 40-40-16 are referenced, but superseded by this section.

1-0917. **CONTRACTS MADE PRIOR TO APPROPRIATION PROHIBITED.** Except as otherwise provided in this chapter or in North Dakota Century Code § 40-05-05, no contract shall be made by the Harwood City Council, and no expense shall be incurred by any officers or departments of the City unless there shall have been a previous appropriation providing for such expense. The Council may enter into contracts with persons, associations, corporations, or limited liability companies for the furnishing of water for fire protection to the municipality, and in case such contract extends over a term of years, it shall be unnecessary that a previous appropriation shall have been made except to cover the amounts payable under the contract for the first year thereof. Such a contract shall not be made for a longer period than twenty years.

Contracts for capital leases, services and or purchases shall acknowledge the nature of the appropriation with either a non-appropriations clause or termination in service upon receipt of a statement of non-appropriation.

The provisions of North Dakota Century Code § 40-40-20 are referenced, but superseded by this section.

1-0918. **PAYMENT OF ACCOUNTS.** The authority to encumber the City is granted in the appropriations process, the disbursement of public monies in exchange for goods and services shall be conducted in an accurate, timely manner and reflected in public record.

Each request for payment shall be adequately documented with vendor information, purchase description, quantities and department approval of an appropriated expenditure account. Control numbers will be used on all disbursements; pre numbered checks, chronologically assigned claim forms and electronic fund transfer numbers.

The first Council meeting of each month shall include a record of all disbursements acknowledged and acted upon by council motion. The record of official proceedings shall summarize total disbursements by fund.

Recurrent Payments: Utilities, contracts, premiums, payroll, payroll related expenses, local vendor incidentals and reimbursements within appropriation limits shall be disbursed in a timely manner. Recurrent payments shall be disbursed on the

authority of the appropriations ordinance with approval by the applicable City officer and prior to ratification of the City Council.

Contracts, Progressive Payments and Capital Expenditures: Expenditures that are significant in nature, specifically appropriated and greater than 5% of a departmental annual appropriation shall be presented to Council for authorization prior to purchase, subsequent payments may be made as requested when substantiated by prior council action.

Unappropriated or Emergency Expenditures: Cash disbursements to meet a public need affecting life, health, property or the public peace for materials essential to non-appropriated purchases shall be approved by the emergency appropriations procedure.

The provisions of North Dakota Century Code § 40-01-13 are referenced, but superseded by this Section.

CHAPTER 1-10

SALES AND USE TAX.

Source: Ord. 2008-5, Sec. 1 (2008)

SECTIONS:

1-1001. Definitions.
1-1002. Sales Tax Imposed.
1-1003. Use Tax Imposed.
1-1004. Gross Receipts of Alcoholic Beverages.
1-1005. Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment.
1-1006. Exemptions.
1-1007. Maximum Tax Imposed.
1-1008. Collection and Administration.
1-1009. Contract with State Tax Commissioner.
1-1010. Dedication of Tax Proceeds.
1-1011. Saving Clause.

1-1001. DEFINITIONS. All terms defined in Chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2 of the North Dakota Century Code (N.D.C.C.), including any future amendments, are adopted by reference. All references to the N.D.C.C. include amendments adopted by the North Dakota Legislative Assembly.

1-1002. SALES TAX IMPOSED. Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, a tax of one percent (1%) is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the City of Harwood, North Dakota.

1-1003. USE TAX IMPOSED. Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the City of Harwood, North Dakota, of tangible personal property purchased at retail for storage, use, or consumption in this City, at the rate of one percent (1%) of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the City of Harwood.

1-1004. GROSS RECEIPTS OF ALCOHOLIC BEVERAGES. Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of one percent (1%) is imposed upon all gross receipts from the sale of alcoholic

beverages within the City. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of one percent (1%).

1-1005. GROSS RECEIPTS OF NEW FARM MACHINERY AND NEW FARM IRRIGATION EQUIPMENT. Subject to the provision of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of one percent (1%) is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the City. A person who receives new farm machinery or new farm irrigation equipment for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of that machinery and/or equipment at the rate of one percent (1%).

1-1006. EXEMPTIONS. All sales, storage, use, or consumption of tangible personal property which are exempt from imposition and computation of the sales or use tax of the State of North Dakota are specifically exempt from the provisions of this chapter.

1-1007. MAXIMUM TAX IMPOSED. No single transaction involving one or more items is subject to a tax in excess of Twenty-five and no/100 Dollars ($25.00).

1-1008. COLLECTION AND ADMINISTRATION. Where not in conflict with the provisions of this Ordinance, the provisions of N.D.C.C. Chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed by this Ordinance.

1-1009. CONTRACT WITH STATE TAX COMMISSIONER. The City Auditor for the City of Harwood is hereby authorized to contract with the Tax Commissioner for the administration and collection of taxes imposed by this chapter. The City Auditor has all powers granted the Commissioner and, in the absence of a valid contract with the Commissioner or failure of the Commissioner to perform the delegated duties, shall perform these duties in place of the Commissioner.

1-1010. DEDICATION OF TAX PROCEEDS. All fees, taxes, penalties and other charges imposed and collected under this chapter, less administrative costs, shall be dedicated and utilized only for infrastructure improvements, including publicly-owned

utilities and buildings, job creation, business retention, expansion and recruitment. Proceeds collected pursuant to this chapter from such sales and use tax may be used to make direct payments of costs for the above purposes, or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs.

1-1011. SAVING CLAUSE. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional, or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

TITLE II.

STREETS

CHAPTERS:

2-01. Driveways.
2-02. Streets.
2-03. Excavation Code.

CHAPTER 2-01
DRIVEWAYS

SECTIONS:

2-0101. Scope of Chapter
2-0102. License Necessary to Construct, Reconstruct and Repair Driveways.
2-0103. Contractor's License, Fee, Expiration Date.
2-0104. Driveway Construction Specifications.
2-0105 Materials in General.
2-0106. Penalty.

2-0101. **SCOPE OF CHAPTER.** This article shall govern all construction of all alley returns and driveways within the City of Harwood.

2-0102. **LICENSE NECESSARY TO CONSTRUCT, RECONSTRUCT AND REPAIR DRIVEWAYS.** No person may construct, reconstruct, or repair driveways within the City without first procuring a license from the City Auditor to engage in such work.

2-0103. **CONTRACTOR'S LICENSE, FEE, EXPIRATION DATE.** If a license to construct, reconstruct, and repair driveways is granted by the City Auditor, the person applying must pay to the City Auditor a license fee as set by resolution of the City Council. Such license will expire on December 31 of each year.

2-0104. **DRIVEWAY CONSTRUCTION SPECIFICATIONS.** All residential driveways must be six (6) inches thick, must be no less than nine (9) feet nor more than thirty (30) feet wide, and must be located so as to provide access to a parking space within the property to be served. All commercial or industrial driveways must be seven (7) inches thick and must be no more than thirty-six (36) feet in width. Provided, however, that such commercial or industrial driveway may, upon approval of the City Engineer, be constructed to a maximum width equal to one-half of the width of the lot.

Driveways should be designed in accordance to the following schedule and approved by the Building Inspector or City Engineer prior to construction:

Designation of Street	Minimum Distance to Property Line Nearest the Intersection
Local Street Approaching Local Street	20 feet
Local Street Approaching Collector Street	30-50 feet
Local Street Approaching Arterial Street	100-120 feet
Collector Streets	Limited Access
Arterial Streets	Limited Access

Access onto designated Collector or Arterial streets should be via a local street system. In instances where this, or the minimum distance to the intersection as set out above, cannot be achieved, approval must first be obtained by the City Council following review by the Planning and Zoning Commission. The required distance to intersections on Collector streets is a minimum of one hundred (100) feet. The required distance to intersections on Arterial streets is a minimum of one hundred fifty (150) feet. In instances where this cannot be achieved, approval must first be obtained by the City Council following review by the Planning and Zoning Commission.

Distances between driveways and intersections are measured from the edge of the driveway closest to the intersection and the right-of-way line of the intersecting street. In no case will the aggregate width of the driveway into a property exceed one-half (1/2) the width of that property.

2-0105. **MATERIALS IN GENERAL.** Design specifications and material requirements for driveways in the City will be available at the office of the City Engineer. All driveways constructed in the City must conform to those requirements.

2-0106. **PENALTY.** Any violation of the provisions of this Chapter will be an infraction unless another penalty is specifically provided for the violation in this Chapter. An infraction may be punished by a maximum fine of $500. The Municipal Judge shall have the authority to establish the penalty for each infraction which is an offense up to a maximum of $500. The Court shall have discretion within the $500, even if the ordinance incorporates a specific section of the State Code and the State Code sets a different penalty for violation of that section. Any person convicted of an infraction who has, within one year prior to the commission of the infraction of which he was convicted, been previously convicted of an offense classified as an infraction may

be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint or citation shall specify that the offense is a misdemeanor. A class B misdemeanor may be punished by a maximum fine of $1,000, or 30 days imprisonment, or both. Each day such violation continues shall be considered a separate offense.

CHAPTER 2-02

STREETS

SECTIONS:

2-0201. Supervision of Construction.
2-0202. Pipes and Conduits in Streets: Prevention of Leaks.
2-0203. Pipes and Conduits in Streets: Repair of Breaks.
2-0204. Superintendent of Streets to Notify Owner of Leak.
2-0205. Failure of Owner to Repair.
2-0206. Construction of Sewer, Vault, Cellar, Cistern or Well in Street - Permit.
2-0207. Excavation in Streets: Permit.

2-0201. **SUPERVISION OF CONSTRUCTION.** Whenever any public streets are constructed in the City of Harwood, such construction shall be under the supervision of the City Engineer.

2-0202. **PIPES AND CONDUITS IN STREETS: PREVENTION OF LEAKS.** It shall be the duty of every person, firm or corporation forcing, transmitting or conveying water or gas through pipes or other conduits which have heretofore been, or shall be hereafter, laid in any street, alley or public ground in the City of Harwood, to prevent the public use of such street, alley or public ground from being or becoming in any way impaired, obstructed, injured or rendered dangerous or offensive by the escape of water or gas into or upon said street, alley or public ground, out of said pipes or conduits.

2-0203. **PIPES AND CONDUITS IN STREETS: REPAIR OF BREAKS.** In case any such pipe or conduit shall break out or burst so that water or gas shall escape from the same into or upon any such street, alley or public ground in said City, it shall be the duty of any person, firm or corporation forcing, transmitting or conveying water or gas through the same, within twenty-four (24) hours after having received notice or knowledge of the escaping water or gas therefrom as aforesaid, to commence and diligently prosecute the repair of said pipe or other conduit, in case such pipe or other conduit is owned by such person, firm or corporation, and if such, pipe or other conduit is not owned by such person, firm or corporation, such person, firm or corporation shall immediately shut off the water or gas therefrom until same is repaired.

2-0204. **CITY AGENT TO NOTIFY OWNER OF LEAK.** It shall be the duty of the City Agent, upon discovery of the fact that water or gas is escaping from any pipe or other conduit, used as aforesaid, into or upon any street, alley or public ground, to immediately notify the person, firm or corporation forcing, transmitting or conveying water or gas through the same, of such escape.

2-0205. **FAILURE OF OWNER TO REPAIR.** In case any person, firm or corporation forcing, transmitting or conveying water or gas through any pipe or other conduit laid in any street, alley or public ground of the City of Harwood shall neglect or refuse to repair the same, in case it is owned by such person, firm or corporation, or to shut the water or gas off therefrom in case it is not owned by such person, firm or corporation, then the City Agent, under the direction of the City Engineer of the said City, shall forthwith proceed to repair said pipe or other conduit, and the cost shall be recovered by the City in an action for that purpose from such person, firm or corporation.

Provided, that the foregoing provision shall not apply to any water mains or service pipes which are owned or under the control of the City of Harwood and under the supervision of the City Agent.

2-0206. **CONSTRUCTION OF SEWER, VAULT, CELLAR, CISTERN OR WELL IN STREET - PERMIT.** No person shall construct, or cause to be constructed or made, any sewer, vault, cellar, cistern or well in any of the streets or public places of the City without the express authority from the City Engineer.

2-0207. **EXCAVATION IN STREETS: PERMIT.** It shall be unlawful for any person, persons, firm or corporation to open up or make any excavation in or upon any street or alley in the City of Harwood, for any purpose, without first having obtained a permit so to do as provided in Chapter 2-03 of the ordinances of the City of Harwood.

CHAPTER 2-03

EXCAVATION CODE

SECTIONS:

2-0301. Definitions.
2-0302. Excavator's Registration.
2-0303. Permit to Excavate.
2-0304. Exemptions.
2-0305. Performance Deposits.
2-0306. Pre-excavation Requirements.
2-0307. Warranty.
2-0308. Joint Application.
2-0309. Supplementary Applications.
2-0310. Denial of Permit.
2-0311. Inspection.
2-0312. Revocation of Permits.
2-0313. Mapping Data.
2-0314. Location of Facilities.
2-0315. Relocation of Facilities.
2-0316. Damage to Other Facilities.
2-0317. Right-of-Way Vacation.
2-0318. Excavation Moratorium.
2-0319. Emergency Excavation.
2-0320. Preservation of Monuments.
2-0321. Inspections.
2-0322. Regulations.
2-0323. Severability.
2-0324. Penalty.
2-0325. Appeal.

2-0301. **DEFINITIONS.**

1. "Alley" shall mean the length as dedicated for use by the public and the width as defined by the property lines on each side thereof.

2. "Berm" shall mean that portion of the street lying outside the traveled way.

3. "City" shall mean the City of Harwood, North Dakota.

4. "City Agent" shall mean a designated official of the City of Harwood.

5. "Controlled density fill" (CDF) shall mean a sand, cement and/or fly ash slurry resulting in a 50 to 100 PSI material used for backfill.

6. "Emergency" shall mean a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

7. "Excavation" means any removal or disturbance of material to a depth of more than three inches within the traveled way of any street or alley or the removal or disturbance of material to a depth of more than ten inches in sod or soil areas of any publicly-owned property. Excavation is further defined to include all tunneling, pushing, or jacking under any publicly-owned property within the corporate limits of the City of Harwood.

8. "Excavator" shall mean any person, firm or corporation who performs the act of excavation through the use of mechanically powered equipment or otherwise.

9. "Facility" or "Facilities" means any tangible asset in the right-of-way required to provide utility service.

10. "Lateral Support" of a public place shall be considered impaired whenever an excavation extends below a plane sloping downward at an angle of 45 degrees from the boundary of the public place, or whenever a proposal excavation would expose any adverse geological formation of soil condition.

11. "Right-of-Way" means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the City. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service.

12. "Street" shall mean the length as dedicated for use by the public and the width as defined by the property lines on each side thereof.

13. "Traveled Way" means the width from curb to curb on curbed streets, from edge to edge on asphalt non-curbed streets, and from shoulder to shoulder on gravel streets.

14. "Utilities" for the purpose of this ordinance, shall include all underground cables, conduit and pipe used for the transportation or distribution of fuel, electricity, communication services, water or sewage.

2-0302. **EXCAVATOR'S REGISTRATION.** No person, firm or corporation shall engage in the practice of Excavation within public right-of-way unless registered as an Excavator in the City of Harwood, or under contract with the City. An Excavator's registration will be issued by the City Auditor upon submission of a written application on forms obtained from the Auditor and upon fulfilling the fee, bonding and insurance requirements as specified herein. The registration period shall be from January 1 to December 31 of each year.

1. Fee. The registration fee for an Excavator's registration for a calendar year or any part thereof shall be set by resolution of the City Council.

2. Insurance. Any person, firm or corporation licensed as an excavator must file proof of liability insurance in the amount of Two Million dollars ($2,000,000) with the City Auditor. The insurance must name the City as an additional insured as to whom the coverages required are in full force and applicable and for whom defense will be provided as to all such coverages. The insurance shall also require that the City Auditor be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term.

2-0303. **PERMIT TO EXCAVATE.**

1. No excavation within public right-of-way shall be initiated without a permit being issued by the City of Harwood, except as otherwise provided in Section 2-0304 of this chapter. Application for an excavation permit shall be made at least 24 hours in advance, in writing, to the City Agent on forms provided by the City. In the case of a bona fide emergency, the written application may be filed after the excavation has been initiated providing that the intent to excavate has been reported to the City Agent, either in person or by telephone.

2. A permit to excavate shall be issued only to a registered Excavator, to a governmental unit of the City, to a contractor performing work under a written contract with any governmental unit or to the owner of a utility

franchised to operate within the corporate limits of the City of Harwood; however, the issuance of a permit under the provisions of this ordinance shall not relieve any permittee from compliance with all requirements of this ordinance nor relieve the permittee of any liability for damage to any existing utility. The City of Harwood assumes no liability whatsoever by virtue to the issuance of said permit. The permit shall be maintained on the site while the excavation is in progress. The permit holder will provide the City Agent with an emergency phone number of a responsible employee who can be contacted during non-working hours. The fee for each permit issued under the provisions of this ordinance shall be set by resolution of the City Council. Every permit issued under the provisions of this ordinance shall expire by limitation and become null and void if the work authorized by such permit is not commenced within twenty days from the date of such permit.

3. Where the permittee will not be the owner of the facilities installed, the owner (or the entity who will become the owner after completion of the project) will also be required to execute the application for permit, be listed on the permit, and be subject to the indemnification and warranty provisions of Section 2-0303(4) and 2-0307.

4. The permittee in the permit must agree to hold the City harmless from any and all damages claimed by reason of negligence, incompetence or omission on the part of such person, firm or corporation in the performance of their work, the same to include, but not be limited to, careless guarding of excavations made by them or failure to restore all public properties to as good a condition as they were before such work was done, or for any damages growing out of the negligence or carelessness of any such licensed person, firm or corporation.

5. An application for a permit will be considered complete only upon compliance with the requirements of the following provisions:

   a. Registration pursuant to this chapter.

   b. Submission of a completed permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project, and the location of all known and existing proposed facilities.

c. Payment of money due the City for:

(1) Permit fees and franchise or user fees, if applicable;

(2) Any overdue permit or fee payment;

(3) Any disputed loss, damage or expense suffered by the City as a result of applicant's prior excavating or any emergency actions taken by the City;

6. The City Agent may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

7. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person (a) makes a supplement to the application for another right-of-way permit before the expiration of the initial permit, and (b) a new permit or permit extension is granted.

8. Notwithstanding subdivision 6 of this section, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching or restoration. The delay penalty shall be established from time to time by the City Council by resolution.

2-0304. **EXEMPTIONS.**

1. The following shall be exempt from the registration and permit requirements:

a. Employees of the department of street of the City of Harwood, while engaged in work directed by the City, shall by exempt from the requirements of Sections 2-0302 and 2-0303 of this chapter.

b. Harwood Park District employees when performing work within the property lines of the areas designated as the park system.

2. The following shall be exempt from the registration requirements:

a. All governmental units of the City.

b. All contractors performing work under a written contract with any governmental unit of the City.

c. Utilities which have a franchise agreement with the City. However, all contractors hired by such utility must be registered.

2-0305. **PERFORMANCE DEPOSITS.** Deposits as required under this section shall be cash, a certificate of deposit, or a surety bond approved by the City Attorney.

1. Certificates of deposit. If a certificate of deposit is used, the certificate must be held by a financial institution located within the city limits of the City of Harwood, North Dakota, and there must be an escrow agreement in a form satisfactory to the City Attorney executed by the City, financial institution, and permittee.

2. Annual Deposits. Any person intending to make openings, cuts or excavations in public places may make and maintain, with the City Auditor, an annual deposit in an amount set by resolution by the City Council, and the person so depositing shall not be required to make the special deposits provided in this section but shall, however, be required to comply with all other applicable provisions of this ordinance.

3. Purpose of Deposits. Any special or annual deposit made hereunder shall serve as security for the repair and performance of work necessary to put the public place in as good a condition as it was prior to the excavation, for a period extending through the warranty period, and to cover any penalties imposed for delay.

4. Special Deposits. Special deposits shall be required for all permits not covered by an annual deposit. The amount of each special deposit shall be determined by the City Agent on a case-by-case basis in accord with paragraph 3.

5. Refund or Reduction of Deposits. Upon the permittee's completion of the work, covered by a permit in apparent conformity with this chapter as determined by the City Agent, two-thirds of such deposit shall be refunded or released by the City, with the remaining balance being released at the completion of the warranty period.

6. Refund or reduction of annual deposits. Two-thirds of any annual deposit shall be refunded by the City at the end of the one-year period for which the deposit is made or the apparent satisfactory completion of all excavation work undertaken during such period, whichever is later, and the balance of the annual deposit shall be released at the expiration of the warranty period.

7. Use of Deposits. Part, or all, of any such deposit may be used to pay the cost of any work the City performs or has contracted to another entity to restore or maintain the public place as provided in this chapter in the event the permittee fails to perform such work, and to cover any penalty for delay which is not paid directly by the permittee.

2-0306. **PRE-EXCAVATION REQUIREMENTS.** It shall be the responsibility of each permittee to notify all utility companies of the intended excavation. Except in the case of a bona fide emergency, a minimum 24-hour advance notice is required. The permit form shall serve as a guide to assist the permittee in scheduling and documenting utility clearance.

2-0307. **WARRANTY.** The permittee warrants that restoration work will meet the requirements of this chapter for a period of twenty-four (24) months following the completion of the work. During this twenty-four (24) month period, it shall, upon notification from the City Agent, correct all restoration work to the extent necessary, using the method required by the City Agent. Such work shall be completed within five (5) calendar days of the receipt of the notice from the City Agent, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable. If permittee fails to restore the right-of-way in the manner and condition required by the City Agent, or fails to satisfactorily and timely complete all restoration required by the City Agent, the City Agent, at its option, may do such work or contract for such work to be done. In that event, the permittee shall pay to the City within thirty (30) days of the billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the City may exercise its right under the deposits required by this chapter, and if such sums are not sufficient, the City may otherwise seek payment from the permittee and/or owner of the facilities installed.

2-0308. **JOINT APPLICATION.**

1. Registrants may jointly apply for permits to excavate or construct a right-of-way at the same place and time.

2. Registrants who apply for permits for the same obstruction or excavation may share in the payment of the permit fees. Registrants must agree among themselves as to the portion each will pay and indicate the same on their application.

3. Registrants who apply for permits for the same obstruction or excavation may share in the required deposit. Registrants must agree among themselves as to the portion each will be responsible for and indicate the same on their application.

2-0309. **SUPPLEMENTARY APPLICATIONS.**

1. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do work outside the area specified in the permit, except as provided herein. Any permittee who determines that an area is greater than that specified in the permit granted must, before working in the greater area (a) make application for a permit extension and pay any additional fees required thereby, and (b) be granted a new permit or permit extension.

2. A right-of-way permit is valid only for the dates specified in the permit. No permittee may be its work before the permit start date or, except as provided herein, continue working after the end date. If permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be done before the permit end date.

2-0310. **DENIAL OF PERMIT.** The City Agent may deny a permit for failure to meet the requirements and conditions of this chapter, or if the City Agent determines that denial is necessary to protect the health, safety, and welfare of the public, or when necessary to protect the right-of-way and its current use.

2-0311. **INSPECTION.**

1. When the work under any permit hereunder is completed, the permittee shall provide written notice of completion to the City Agent.

2. Permittee shall make the work-site available to the City Agent and to all others as authorized by law for inspections at all reasonable times during the execution of and completion of the work.

3. The City Agent shall have the authority to do the following:

   a. At the time of inspection, the City Agent may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

   b. The City Agent may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation will be a cause for revocation of the permit. Within ten (10) days after the issuance of the order, the permittee shall present proof to the City Agent that the violation has been corrected. If such proof has not been presented within the required time, the City Agent may revoke the permit pursuant to Section 2-0316.

2-0312. **REVOCATION OF PERMITS.**

1. The City reserves its rights, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

   a. The violation of any material provision of the right-of-way permit;

   b. An evasion or attempt to evade any material provision of the right-of-way permit or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;

   c. Any material misrepresentation of fact in the application for a right-of-way permit;

   d. The failure to complete the work in a timely manner, unless a permit extension is obtained or

unless the failure to complete the work is due to reasons beyond the permittee's control; or

e. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Section 2-0315.

2. If the City Agent determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the City Agent shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City Agent, at his or her discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

3. Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the City Agent with a plan, acceptable to the City Agent, that will cure the breach. Permittee's failure to so contact the City Agent, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of permit.

4. If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorney's fees incurred in connection with such revocation.

2-0313. **MAPPING DATA.** Each owner of utilities in the right of way in Harwood must provide mapping information required by the City Agent. Mapping data shall generally consist of drawing exhibits showing all existing aboveground and underground facilities and proposed location of new facilities. Drawings shall be submitted in AutoCAD DWG or DXF digital format and in hard copy. All drawings shall be registered to the City's coordinate system, or if the City does not have a separate coordinate system, the North Dakota State Plan, and certified by a registered land surveyor or professional engineer. In regard to existing facilities, the required mapping information must be provided within one year of the written request for such information by the City Agent. Failure to provide such information in the time required, shall subject the violator to administrative fines in the amount of $500 a day until the violator is in compliance. In addition, no permit will be granted to the violator, or to a

contractor doing work for the violator until the violator is in compliance with this section.

2-0314. **LOCATION OF FACILITIES.**

1. Unless otherwise permitted by an existing franchise or North Dakota law, or unless existing aboveground facilities are repaired or replaced, new construction and the installation of new facilities and replacement of old facilities shall be done underground or contained within buildings or other structures in conformity with applicable code.

2. The City Agent may assign specific corridors within the right-of-way or any particular segment thereof as may be necessary, for each type of facilities that is, or pursuant to current technology, the City Agent expects will someday be located within the right-of-way. All permits issued by the City Agent involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. A five foot clear zone shall be maintained on each side of the City sanitary sewer, storm sewer and water main utilities.

3. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City Agent shall, not later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived in writing by the City Agent for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

4. To protect the health, safety and welfare or, when necessary, to protect the right-of-way and its current use, the City Agent shall have the power to prohibit or limit the placement of new or additional facilities within a right-of-way. In making such decisions, the City Agent shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the

right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

2-0315. **RELOCATION OF FACILITIES.** A registrant must promptly, and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way whenever the City Agent for good cause requests such removal and relocation, and shall restore the right-of-way to the same condition it was in prior to said removal or relocation. The City Agent may make such requests to prevent interference by the company's equipment or facilities with (a) a present or future City use of the right-of-way, (b) a public improvement undertaken by the City, (c) an economical development project in which the City has an interest or investment, (d) when the public health, safety and welfare of the public require it, or (e) when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way. Notwithstanding the foregoing, a person shall not be required to move or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until reasonable costs thereof are first paid by the non-governmental entity requesting the vacation.

2-0316. **DAMAGE TO OTHER FACILITIES.** When the City Agent does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the City Agent shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to the registrant and must be paid within thirty (30) days from the date of the billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each registrant shall be responsible for the cost of repairing any damage to the facilities of any other registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

2-0317. **RIGHT-OF-WAY VACATION.**

1. If the City vacates a right-of-way which contains the facilities of a registrant, and if the vacation does not require the relocation of registrant's or permittee's facilities, the City shall reserve, to and for itself and all registrants having facilities in the vacated right-of-way, the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

2. If the vacation requires the relocation of registrant's or permittee's facilities and (a) if the vacation proceedings are initiated by the registrant or permittee, the registrant or permittee must pay the relocation costs; or (b) if the vacation proceedings are initiated by the City, the registrant or permittee must pay the relocation costs unless otherwise agreed to by the City and the registrant or permittee; or (c) if the vacation proceedings are initiated by a person or persons other than the registrant or permittee, such other person or persons must pay the relocation costs.

2-0318. **EXCAVATION MORATORIUM.** No excavation requiring a permit will be allowed within 36 months of the completion of construction of a roadway. Additionally, no excavation will be allowed on any roadway within 24 months following any of the following activities: overlay, mill and overlay, chip seal, or slurly seal without written authorization from the City Agent.

2-0319. **EMERGENCY EXCAVATION.** Nothing in this ordinance shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the City Agent for such a permit on the first working day after such work is commenced.

2-0320. **PRESERVATION OF MONUMENTS.** Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a survey reference point, or a permanent survey bench mark, shall not be removed or disturbed without first obtaining permission in writing from the City Agent. Permission to remove or disturb such monuments, reference points or bench marks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper placement of this monument by the City Agent or registered land surveyor. Any person or entity removing or disturbing such monuments without permission shall be responsible for any costs associated with replacing the monuments, as well as a $500 administrative penalty.

2-0321. **INSPECTIONS.** The provisions of this chapter do not relieve or change any other inspection requirements contained in the City ordinances or in any rules and regulations as approved by the City Council.

2-0322. **REGULATIONS.** The City Agent is hereby authorized and directed to promulgate rules and regulations setting forth the

requirements for excavation protection, backfilling and restoration, and related matters, to prepare the necessary related forms, and to issue such permits in compliance with this chapter.

2-0323. **SEVERABILITY.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

2-0324. **PENALTY.**

1. Every person, firm or corporation violating this ordinance shall, upon conviction thereof, be punished by a fine not to exceed $500, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof.

2. The City shall further have the right and authority to deny, suspend or revoke the registration or permit of every person violating this chapter.

2-0325. **APPEAL.**

1. A right-of-way user that (a) has been denied registration; (b) has been denied a permit; (c) has had a permit revoked; or (d) believes that the fees imposed are invalid, may have that denial, revocation, or fee imposition reviewed, upon written request by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

2. Upon confirmation by the City Council of the denial, revocation, or fee imposition, the right-of-way user shall have the right to have the matter resolved by binding arbitration. Binding arbitration must be before an arbitrator agreed to by both the City Council and the right-of-way user. If the parties cannot agree on an arbitrator, the matter must be resolved by a three-person arbitration panel made up of one arbitrator selected by the City, one arbitrator selected by the right-of-way users, and one selected by the other two arbitrators. The costs and fees of a single arbitrator shall be borne equally by the City and right-of-way user. In the event there is a third arbitrator, each party shall bear the

expense of its own arbitrator and shall jointly and equally bear with the other part of the expense of the third arbitrator and the arbitration.

TITLE III.

PARKS AND BOULEVARDS

CHAPTERS:

3-01. Parks.
3-02. Boulevards.

CHAPTER 3-01

PARKS

SECTIONS:

3-0101. Acceptance by City of Provisions of State Law.
3-0102. Compensation of Park Board Members.

3-0101. **ACCEPTANCE BY CITY OF PROVISIONS OF STATE LAW.** The provisions of Chapter 40-49 of the North Dakota Century Code, and any amendments thereto, are accepted by the City Council of the City of Harwood, it being the intent of the City to have a Park District of the City of Harwood with all the powers and responsibilities as set out in Chapter 40-49 of the North Dakota Century Code, and all amendments thereto.

3-0102. **COMPENSATION OF PARK BOARD MEMBERS.** Each duly elected and qualified member of the Board of Park Commissioners shall receive compensation for their services as set by resolution of the City Council.

CHAPTER 3-02

BOULEVARDS

SECTIONS:

3-0201. Definitions.
3-0202. Prohibited Acts or Encroachments.
3-0203. Permits.
3-0204. Driving on Sidewalk or Boulevard.
3-0205. Care of Boulevard.
3-0206. Failure of Landowner to Care for Boulevard.
3-0207. Penalty.

3-0201. **DEFINITIONS.**

1. "Boulevard" or "Berm" shall mean that area of ground between the roadway and the sidewalk or, if there be no sidewalk, it is the area of the ground between the roadway and the dedicated limits of the street or avenue.

2. "Roadway" shall mean that portion of the street or avenue improved, designed, or ordinarily used for vehicular travel.

3-0202. **PROHIBITED ACTS OR ENCROACHMENTS.**

1. Parking. No person shall stop, stand, or park a motor vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, upon a sidewalk or boulevard.

2. Signs. Any sign or signs or billboard, except official or quasi-official signs, standing or erected upon a boulevard is a public nuisance and may be abated by removing the sign.

3. Buildings. No person shall erect or cause to be erected or permit any building or structure to stand upon the boulevard, other than a mailbox.

4. Storage. It is prohibited to store any equipment, building materials, inventory, or any other material upon the boulevard.

3-0203. **PERMITS.** Nothing herein shall prohibit the parking of motor vehicles upon the sidewalk or boulevard, the erection of signs or billboards upon the boulevard, the maintaining of a building or structure upon the boulevard, or the storage of equipment, material or inventory upon the boulevard if written application is made to the City Council requesting the privilege of parking motor vehicles upon the sidewalk or boulevard, the erection of signs or billboards upon the boulevard, the maintaining of a building or structure upon the boulevard, or the storage of equipment or inventory upon the boulevard, and the City Council grants such permission by resolution.

3-0204. **DRIVING ON SIDEWALK OR BOULEVARD.** No person shall drive any vehicle over, across, or upon any sidewalk, curb, or boulevard except where there are driveway crossings. Provided, however, the owner or occupant or his agents or employees may drive over the same temporarily when necessary to obtain access to the premises if permission to do so is first obtained from the City Auditor. The City Auditor, in granting such permission, may require protective measures to protect the curb, sidewalk, and boulevard, which protective measures must be removed immediately after such temporary use.

3-0205. **CARE OF BOULEVARD.** It shall be the responsibility of the abutting property owner to seed or sod the boulevard. No gravel, pavement, or other hard surface may be placed on the boulevard except for a driveway or sidewalk. No tree, shrub, or other plant or vegetation growth may be planted within the boulevard without permission granted by resolution by the City Council. Any person or entity desiring to place gravel, pavement, or other hard surface, or tree, shrub or other plant or vegetable growth in the boulevard may make written application to the City Council, and the City Council, by resolution, may approve such request when the City determines that it is in the best interests of the City to do so or where there is some other extenuating circumstance which would make the planting or maintaining of grass difficult or inappropriate. In addition, the City Council may place any reasonable conditions (such as relating to the maintenance and/or height) of any material or vegetation placed or planted on the boulevard. Such conditions shall be binding upon the abutting property owner and any of his or her successors in interest.

3-0206. **FAILURE OF LANDOWNER TO CARE FOR BOULEVARD.** If the abutting property owner fails to care for the boulevard in such a manner that the City Council feels has the potential to pose a health or safety hazard, then the City Council may by resolution order the abutting landowner to take such steps as are necessary to rectify the condition. If the abutting landowner fails to comply

with the directive of the City Council within 30 days, then the City Council may cause such steps to be done and may assess the costs of the same against the taxes on the abutting landowner's property.

3-0207. **PENALTY.** A violation of this chapter may be punishable as an infraction as set forth in Section 1-0211 of these ordinances.

TITLE IV

PLANNING AND ZONING

CHAPTERS:

4-01. General Provisions.
4-02. Zoning District Regulations.
4-03. Supplementary District Regulations.
4-04. Extraterritorial Provisions.
4-05. Subdivision Improvement Guarantees.
4-06. General Administrative Provisions.
4-07. Administration and Enforcement.
4-08. Violations: Remedies, Complaints and Penalties.
4-09. Outdoor Advertising.

CHAPTER 4-01

GENERAL PROVISIONS

CHAPTERS:

4-0101. General Definitions.
4-0102. List of Definitions.
4-0103. Jurisdiction.
4-0104. Compliance.
4-0105. Interpretations.
4-0106. Lot of Record.
4-0107. Residential Development.
4-0108. Sewer and Water Regulations.
4-0109. Sight Distance at Intersections.
4-0110. Lot of Record.
4-0111. Fences, Walls and Hedges.
4-0112. Easement.
4-0113. Building Permit.
4-0114. Certification of Compliance.
4-0115. Regulation of Location and Size of Culverts and Regulation of Drainage.
4-0116. Fee Schedule.

4-0101. **GENERAL DEFINITIONS.**

1. Title. This Ordinance shall be known, cited and referred to as the "Harwood City Land Use Ordinance." It and all subsequent amendments to it may be referred to in this document as "this Ordinance".

2. Authority. This Ordinance is enacted pursuant to authority granted in North Dakota Century Code Chapters 40-47, 40-48, and 40-50.1; and all subsequent Laws or amended Laws as provided for in the North Dakota Century Code.

3. Jurisdiction. This Ordinance shall be effective throughout the City's land use jurisdiction. The City's land use jurisdiction shall include all areas within its corporate boundaries as well as any area which is or shall subsequent to the adoption of this ordinance be described by City ordinance as a part of the City's extraterritorial subdivision or zoning jurisdiction.

4. Severability. Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared invalid by any court of competent jurisdiction in a valid

judgment or decree, such invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance.

5. Repeal. All other ordinances or parts of ordinances of the City of Harwood, North Dakota, inconsistent or in conflict with this ordinance, to the extent of inconsistency or conflict only, are hereby repealed.

6. Purpose. The purpose of this Ordinance is to: (1) protect the health, safety, morals, comfort, and general welfare of City of Harwood residents; (2) conserve, protect, and manage the use of natural resources within the Harwood land use jurisdiction; (3) promote well-managed and staged development of residential, commercial, recreational, public, and other areas; and (4) exercise any or all of the powers granted to the City of Harwood under state law.

7. Effective Date. This Ordinance and all subsequent amendments to it shall be effective upon appropriate passage by the City of Harwood's governing body.

8. Interpretation The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

   A. The singular number includes the plural and the plural the singular.

   B. The present tense includes the past and future tenses, and the future the present.

   C. The word "shall" is mandatory, and the word "may" is permissive.

   D. The masculine gender includes the feminine and neuter genders.

   E. If no set definition is given in the Ordinance, the City's governing body shall interpret and define any word or section of the Ordinance after obtaining advice from the City Planning Commission. Any definition constructed, defined, and interpreted by the City's governing body shall be added to the definitions included in this ordinance, in order to assist consistent future application of the ordinance.

F. All measured distances expressed in feet shall be to the nearest tenth of a foot.

G. In event of conflicting provisions, the more restrictive provisions shall apply.

H. The provisions of this land use ordinance are to be interpreted as the minimum requirements necessary within the City of Harwood's land use jurisdiction. No building or structure may be erected, moved, converted, enlarged, reconstructed or altered , and no land use may occur except in accordance with all of the regulations established by this land use ordinance.

4-0102. **LIST OF DEFINITIONS.** The following words and terms, whenever they occur in this Ordinance are defined as follows:

1. Accessory Use or Accessory Structure. A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use, such as a garage or tool shed.

2. Agriculture. The use of land for agriculture purposes, including necessary buildings and structures which shall be used for agricultural including, but not limited to, farming, dairying, pasturage, horticulture, floriculture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

3. Amendment. Any change, revision, or modification of the text of this ordinance or the zoning district map.

4. Animal Feeding Operation or Feedlot. The care and keeping of livestock or other animals which has been defined as an animal feeding operation by the North Dakota Century Code and the North Dakota Department of Health.

5. Auditor's Lot. A lot of record which was established and classified by the Cass County Auditor.

6. Auto Body Work. Major automotive repair including, but not limited to, the straightening of frame, sanding, puttying and painting activities, and other activities

which involve changes to the frame or exterior of a vehicle, except for automobile (van) conversion.

7. Automobile (Van) Conversion. Where changes are made to the exterior or interior of an automobile or van for the purpose of sale. Such changes may include cutting holes for windows or redoing the interior; however, such changes would not include activities as defined in "Auto Body Work."

8. Block. A segment of the City bounded by right-of-ways, intersecting streets and/or railroads.

9. Buildable Area. The portion of a lot remaining after required yards have been provided.

10. Building. Any structure which has a footprint greater than 144 square feet.

11. Building Footprint. The area established by the perimeter of a building's anchor or contact points with the ground.

12. Certificate of Compliance. A certificate stating compliance with the provisions of this ordinance.

13. Child Care Center. Any facility which is licensed as a "group child care home" or "group child care facility" by the Department of Human Services to provide early childhood services on a regular basis, and which facility has eight or more children present, including sons, daughters, related children, and others as determined by the Department of Human Services, or a facility, other than an occupied private residence, which services fewer than eight children.

14. Commercial Agriculture. The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income, including but not limited to the following:

    a. Field crops, including: barley, soybeans, corn, hay, oats, potatoes, rye, wheat, sunflowers, and sugar beets.

    b. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds, and other animals, including dogs, ponies, and rabbits.

    c. Livestock products, including: milk, butter, cheese, eggs, meat, fur, and honey.

15. Conditional Use. A use which is not appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses are allowed in a zoning district as a conditional use if specific provision for such use is made in the zoning district regulations.

16. Condominium. Individual ownership of a unit in a multiple dwelling structure or area.

17. Convenience Establishments. Small establishments designed and intended to serve the daily or frequent trade or service needs of immediately surrounding medium to high density population. Such establishments include groceries, coin-operated laundry and dry-cleaning agencies, tailoring and dressmaking shops, beauty shops, barber shops, and the like. Specifically excluded are filling stations and repair garages, drive-in eating and drinking establishments, and liquor establishments.

18. Dwelling. A building or portion of a building occupied exclusively as living quarters for one or more families. This does not include mobile recreational vehicles.

19. Dwelling, Manufactured Home. A factory built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with the Manufactured Home Construction and Safety Standards Act of 1974 (24 CRF 3280) which became effective June 15, 1976, promulgated by the United States Department of Housing and Urban Development.

20. Dwelling, Mobile Home. A factory built structure, transportable in one or more sections, which in the traveling mode is eight body feet (8') or more in width or forty body feet (40') or more in length, or when placed on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a year-round dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating,

air conditioning and electrical systems contained therein and which bears a label certifying that it was built in compliance with the Manufactured Home Construction and Safety Standards Act of 1974 (24 CRF 3280), which became effective June 15, 1976, promulgated by the United States Department of Housing and Urban Development.

21. Dwelling, Modular. A manufactured dwelling which is not a mobile home dwelling in accordance with these regulations, and which meets the following criteria:

    (a) is not constructed on a pier foundation;

    (b) is constructed on a permanent foundation which provides a basement or crawl space which complies with the Uniform Building Code and the City's Building Code;

    (c) has a minimum front width of 24 feet and a minimum depth of 20 feet;

    (d) has a predominantly double-pitched roof with a minimum vertical rise of 4 inches for every 12 inches of horizontal run and a minimum eave projection and roof overhang of 10 inches on at least two sides. Gutters shall be counted in calculating roof overhang;

    (e) uses siding and roofing materials customarily used on site-built homes with in the City;

    (f) has a minimum gross floor area of 960 square feet;

    (g) has a minimum ceiling height of 8 feet, unless otherwise allowed by UBC; and

    (h) does not have a permanent hitch.

22. Dwelling, Multi-Family. Any building designed to be occupied by more than one housekeeping unit.

23. Dwelling, Single Family (One Family). See "Residence, Single Family."

24. Dwelling, Two-Family. A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

25. Dwelling Unit. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. This does not include vehicles designed for camping or other forms of temporary occupancy.

26. Essential Services. The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground or overhead telephone, gas, electrical, steam, communication, or water transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith for the furnishing of adequate service by such public utilities or municipal departments or commissions to the residents of Harwood.

27. Extraterritorial Zoning Jurisdicition. Unincorporated lands outside the city limits of Harwood over with the City has the zoning authority.

28. Family. One or more persons living together as members of a single housekeeping unit, related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage living together in a dwelling unit.

29. Family Child Care Home. An occupied private residence in which early childhood services are provided for no more than seven children at any one time, except that the term includes a residence providing early childhood services to two additional school-age children during the two hours immediately before and after the school day and all day, except Saturday and Sunday, when school is not in session during the official school year.

30. Feedlot: A confined area or structure used for feeding, breeding, or holding livestock, including poultry, horses, cattle, swine, goats, sheep, or other animals of domestic husbandry, for eventual sale in which animal waste may accumulate, but not including barns, pens, or other structures.

Source: Sec. 1, Ord. 2007-2 (2007).

31. Floor Area, Gross. The total area of all floors of a building as measured to the outside surfaces of exterior walls and including halls, stairways, elevator shafts, attached garages, porches, and balconies.

32. Grade. The horizontal elevation of the finished surface of the ground, paving or sidewalk adjacent to a building line.

33. Group Home. Any community residential facility, foster home, family care facility, or other similar home for developmentally disabled persons.

34. Height, Building. The vertical distance from the established grade to the highest point of the coping of a flat roof, to the deckline of a mansard roof, or to the average height between eaves and ride for a gable, hip shed, or gambrel roof. Where a building is located on a slope, height shall be measured from the average grade level adjacent to the building.

35. Home Occupation. An activity secondary to the primary function of a dwelling unit which does not involve any exterior storage, does not require off-street parking, not including vehicles exceeding 1 ton, and controlled by noise ordinance. Exception: Daycare limited to 7 children or less with fenced yard.

36. Junk Yard. Any area used for the storage, keeping or abandonment of junk, including scrap metals, or other scrap materials or goods, or used for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

37. Kennel. Any place in or at which any number of dogs are kept for the purpose of sale or in connection with boarding, care, or breeding, for which any fee is charged.

38. Land Use Jurisdiction. The land area within the municipal boundaries and in extraterritorial areas over which the City of Harwood has established zoning or subdivision controls by ordinance.

39. Landfill. A site where garbage, junk, building materials, demolition materials, trash, rubbish, or hazardous waste is placed in the ground for disposal or for fill purposes.

40. Loading Space. A space or berth on the sale lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

41. Lot. Any separately described parcel of land which has a separate legal description as defined by metes and bounds, plat, or auditor's lot. It does not include a parcel which is an easement.

42. Lot Area. The horizontal area within the lot lines of the lot.

43. Lot, Corner. A lot of which at least two adjacent sides abut for their full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees.

44. Lot Coverage. The ratio of the area of the lot covered by building footprints and/or paved surfaces to the total lot area, expressed as a percentage of total lot covered.

45. Lot Depth. The mean horizontal distance between the front and rear lot lines.

46. Lot Frontage. The front of a lot shall be construed to be the portion nearest the street, For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage and shall be provided as indicated under Yards in this section.

47. Lot, Double Frontage. A lot having a frontage of two intersecting streets, as distinguished from a corner lot.

48. Lot Interior. A lot other than a corner lot.

49. Lot of Record. A lot which has been recorded at the Cass County Recorder’s office as of the effective date of this ordinance.

50. Lot Width. The mean horizontal distance across the lot between side lot lines at the building line measured at right angles to the depth.

51. Mobile Home. A mobile home is a detached residential unit designed for transportation arriving complete and ready for occupancy at the site where it is to be occupied except for connections to utilities. A

recreational travel trailer is not to be considered a mobile home.

52. Mobile Home Park. Any site, or tract of land under single ownership, upon which are located two or more mobile homes used for residential purposes either free of charge or for a fee. A mobile home park shall include any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.

53. Moved Structure. Any structure that is moved onto a site within the City's land use jurisdiction.

54. Non-Conforming Lot. Any lot existing at the time of the adoption or amendment of this ordinance which does not conform to the provisions of this ordinance.

55. Non-Conforming Use. See Use, Non-conforming.

56. Open Grazing: Except as is covered by the definition of a Feedlot, Open Grazing includes the use of land for the grazing, holding, pasturing, sorting, watering, milking, breeding, riding, or otherwise raising, producing, or keeping livestock (including but not limited to poultry, swine, beef and dairy cattle, horses, sheep, goats, and other animals of domestic husbandry).

Source: Sec. 2, Ord. 2007-2 (2007).

57. Open Space. A privately-owned area on the grounds of a premises outside of any Principal Building or parking area, that is set aside and intended for the outdoor enjoyment of occupants or visitors to the property, and which may but is not required to include such pedestrian-oriented improvements as landscaping, sidewalks, walkway paths, gazebos, bikeways, active recreation facilities or play equipment, and benches, and which may further include no more than 20% of its area in water bodies or other areas inappropriate for pedestrian use.

58. Parcel. Any area of contiguous land which can be uniquely described.

59. Parking Space, Off Street. A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

60. Planted Buffer Strip. Planted trees 12 feet at center.

61. Private Noncommercial Recreational or Cultural Facility. A facility catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain; provided that any vending stands, merchandising, or commercial activities are conducted only as required for the membership of such club.

62. Residence, Single Family. A structure containing only one dwelling unit designed to be located on a permanent foundation as required by state and/or local requirements and, if site built, constructed in accordance with the provisions of the applicable State and City Codes governing construction or, if manufactured off site, constructed in accordance with either the City Code governing construction or the HUD Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 2180) which became effective June 15, 1976. All single family dwellings shall be considered and taxed as real property, as provided by law. Each single family dwelling shall have a minimum overall front width of twenty-two feet (22'), except in the Manufactured Housing District, and a minimum main floor living space square footage of 900 square feet for a one-story structure for all districts in which a single family structure is allowed. The design, location and appearance of the single family structure must be compatible with existing dwellings in the area. The roof on all single family dwellings shall be pitched with a minimum vertical rise of four inches (4") for each twelve inches (12") of horizontal run, except in the Manufactured Housing District, and shall consist of shingles or other nonreflective roof material customarily used for conventional dwellings and be approved by the Building Inspector. The exterior material on all single family dwellings shall be of a color, material and scale customarily used on existing dwellings within the general area and shall extend to the ground, except that when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation. The exterior material of the dwelling shall be approved by the Building Inspector. A basement is required for all single family dwellings with a minimum footage of 900 square feet to 1500 square feet. A garage is required for all single-family dwellings.

63. Retirement. A multiple residential structure or structures designed exclusively for use by elderly or retired persons. To fulfill this requirement, at least one occupant of each unit must be retired and at least Fifty-five (55) years of age.

64. Salvage Yard. Any land or building used for the storage, sale, or dismantling of vehicles, and salvage materials of any kind.

65. Setback. The minimum horizontal distance between a building and the lot line.

66. Sign. Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency.

67. Story. That portion of a building included between the upper and surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused underfloor space is more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar or unused under-floor space shall be considered as a story.

68. Street or Road. Any public way set aside as a permanent right-of-way for vehicular or pedestrian access.

69. Street Line. The right-of-way line of a street.

70. Story. That part of a building or structure between any floor and the floor next above, and if there is no floor above, then the ceiling above. A basement is a story if its ceiling is four and one half feet (4½) or more above the level from which the height of the building or structure is measured.

71. Structural Alteration. Any change in the supporting members of a building including but not limited to bearing walls, load bearing partitions, columns, beams, or gliders, or any substantial change in the roof or in the exterior walls.

72. Structure. Anything constructed. the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, but not including fences.

73. Swimming Pool. A structure designed to be used for swimming which has a capacity of one thousand (1,000) gallons or more or which has a depth of over twenty-four (24) inches.

74. Townhouse. A single-family dwelling unit occupying its own lot but attached to one or more other units by a common wall or walls.

75. Trailer Home Parks. A parcel of land which meets the Mobile Home Park District standards for a mobile home park.

76. Travel Trailer. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

77. Use. Any purpose for which a building, structure, or tract of land may be designed, arranged, intended, maintained, or occupied.

78. Use, Accessory (Structure). A use of a structure subordinate to the principal use of building on the same lot and serving a purpose customarily incidental thereto.

79. Use, Conditional. Any building, structure, and use designated as a conditional use in the zoning district regulations which would not generally be appropriate or without restriction throughout the zoning district but which, if controlled, would promote the health, safety or general welfare.

80. Use, Non-Conforming. A building, structure or premises lawfully occupied at the time of the enactment of these regulations that does not conform with the provisions of the regulations for the district in which it is located; also, such use resulting from changes in zoning districts or in textual provisions made hereafter.

81. Use, Permitted. Any building, structure, or use which complies with the applicable regulations of this Ordinance governing Permitted Uses in the zoning district in which such building, structure or use is located.

82. Use, Principal. The main or primary purpose of which a building, other structure, and/or lot is designed, arranged, or intended, or for which they may be used, occupied, or maintained under this Ordinance. The use of any other building, other structure and/or land on the same lot and incidental or supplementary thereto and permitted under this Ordinance shall be considered an accessory use.

83. Variance. A modification of the literal provisions of this Ordinance which the Board of Adjustment is permitted to grant when strict enforcement of said provisions would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

84. Yard. An open space, other than a court, on the same lot with a building, unoccupied and unobstructed by any portion of a structure from 30 inches above the general ground level of the graded lot upward. In measuring a yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

85. Yard, Front. An open space extending the full width of a lot between a building and the front lot line. The depth shall be the shortest distance, measured horizontally, between any part of a building and the front lot line.

86. Depth of Required Front Yards Shall be Measured. At right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel.

87. Yard, Rear. An open space extending the full width of a lot between a building and the rear lot line. The depth shall be the shortest distance, measured horizontally, between any part of a building and the real lot line.

88. Yard, Side. An open space extending from the front yard to the rear yard between a building and the side lot line. The depth shall be the shortest distance, measured horizontally, between any part of a building and the nearest side lot line.

89. Yard, Special. A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

90. Zoning Lot. A lot or contiguous lots under common ownership and located within a single zoning district which for purposes of determining conformity to zoning provisions of this ordinance may be considered a single lot of record.

4-0103. **JURISDICTION.** These regulations shall apply in all incorporated parts of Harwood, North Dakota, and within its one (1) mile extraterritorial jurisdiction unless the one (1) mile is reduced due to the proximity of another incorporated municipality.

4-0104. **COMPLIANCE.** No land shall be used and no building or structure shall be repaired or built unless in conformance with these regulations.

4-0105. **INTERPRETATION.** In interpreting and administering this ordinance, the provisions shall be held to be the minimum requirements, unless otherwise specified. Where this ordinance imposes a greater restriction than existing law, the provisions of this ordinance shall govern.

4-0106. **LOT OF RECORD.** A parcel of land on which a dwelling unit exists at the time of the adoption of this ordinance. Such legal lots may be rebuilt upon if existing dwelling units are removed or destroyed.

4-0107. **RESIDENTIAL DEVELOPMENT.**

1. No lot shall contain more than one principal residential building.

2. No dwelling unit shall be built on a lot that does not abut a dedicated public street.

3. No residential building shall exceed a height of 35 feet, including apartments, sleeping rooms, and residences

located above commercial, service and trade establishments.

4. Accessory structures shall not exceed a height of 35 feet, including apartments, sleeping rooms, and residences located above commercial, service and trade establishments.

5. Solar energy systems are exempted from lot coverage requirements in all zoning districts.

6. No person shall, within the limits of the City, erect, construct, or maintain any fence or enclosure on any premises or piece or parcel of ground with what is known as barbed wire or with any other fencing material that is not aesthetically appropriate considering the neighboring properties. No fence, wall, hedge or shrub planting shall in any event be more than six (6) feet in height in any rear yard, side yard, or front yard.

4-0108. **SEWER AND WATER REGULATIONS.** To protect the public health, control water pollution, and reduce nuisance and odor, all new developments within the City of Harwood shall be connected to municipal sewer and water systems, unless permission is otherwise granted by the Planning & Zoning Commission and the City Council. Any installation of sewer or water lines shall be in accordance with the provisions of Chapter 4-04 of Chapter IV of these ordinances.

SECTION 4-0109. **SIGHT DISTANCE AT INTERSECTIONS.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them a points 25 feet from the intersection of the street lines. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained in sufficient height to prevent obstruction of such sight lines.

SECTION 4-0110. **LOT OF RECORD.** Any parcel of land on which a dwelling unit exists at the time of adoption of this ordinance shall constitute a legal lot. Should a dwelling unit existing on a legal lot be removed or destroyed, the lot may be rebuilt upon. Setback and side yard requirements should be adhered to where possible.

SECTION 4-0111. **FENCES, WALLS AND HEDGES.** Fences, walls and hedges may be permitted on a lot abutting an intersection in any required yard, or along the edges of any yard, provided that no

fence, wall, or hedge along the sides or front edge of any front yard shall be over 2½ feet in height.

SECTION 4-0112. **EASEMENT.** Any residential or commercial development abutting Interstate 29 or its right-of-way shall have a 10-foot easement granted to the city for a border of trees to be planted. This planting shall be at the developer's expense and subject to approval by the Harwood City Council.

SECTION 4-0113. **BUILDING PERMIT.**

(1) Prior to construction, reconstruction, structural alteration or change of use of a structure, accessory structure, or lot, a building permit shall be obtained from the administrative official on a form provided, certifying that the proposed use or structure complies with all of the provisions of this ordinance. Accessory uses which are clearly incidental to a permitted use within a zoning district shall not require a permit. The failure to obtain a building permit prior to construction shall result in an administrative fine as set by resolution of the City Council.

(2) All applications for building permits shall be accompanied by plans drawn to scale, showing the exact dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of any proposed or existing structures; existing and proposed use of any structures; layout and number of spaces for off-street parking and loading; and other such information as may be necessary to determine compliance with this ordinance. One copy of the plans and permit shall be returned to the applicant to the administrative official, after which such copy is marked with approved or disapproved and attested to by an official signature on such copy. One copy of the plans and permit, similarly marked, shall be retained by the administrative official.

(3) Building permits issued on the basis of plans or applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and specifications and does not include any other use, arrangement, or construction. Any arrangement, or violation of this ordinance and punishable in accordance with the provisions thereof.

(4) All building permits issued shall expire if work or construction authorized is not commenced within one hundred twenty (120) days of issuance, or if construction or work is suspended or abandoned for a period of one hundred twenty (120) days at any time after work is

commenced unless an extension of time is applied for and received prior to the original expiration date.

SECTION 4-0114. **CERTIFICATE OF COMPLIANCE.**

(1) A certificate of compliance is required to determine conformity with the specifications of the building permit before any structure or building may be occupied. The certificate of compliance is issued by the Administrative Official upon completion of an onsite inspection after work specified in the building permit has been completed.

(2) Reasons for refusal to issue a certificate of compliance must be stated by the Administrative Official in writing within fifteen days after the request of the applicant for the certificate.

SECTION 4-0115. **REGULATION OF LOCATION AND SIZE OF CULVERTS AND REGULATION OF DRAINAGE.**

(1) To protect the public health and safety and to control drainage of water and reduce nuisance and odor, all new development within the City of Harwood shall conform to requirements made by the City Council relating to drainage of water and location and size of culverts. Said regulation shall pertain to new construction as well as reconstruction and any proposed changes in present drainage.

(2) Grades of ditches and other drainage and location and sizing of culverts may be included on any building permit, and construction pursuant to the building permit must conform with such drainage information placed on the building permit.

SECTION 4-0116. **FEE SCHEDULE.** The City Council may, by resolution, set an application fee schedule for conditional use permits, zoning amendments, variances, and other zoning applications.

CHAPTER 4-02

ZONING DISTRICT REGULATIONS

SECTIONS:

4-0201. Establishment of Districts.
4-0202. Official Zoning Map.
4-0203. Regulations for "A" Districts (Agricultural Use Districts).
4-0204. Regulations for "R-1" Districts (Single Family Dwelling Districts).
4-0205. Regulations for "R-2" Districts (One and Two Family Dwelling Districts).
4-0206. Regulations for "R-3" Districts (Multiple Dwelling Districts).
4-0207. Regulations for "R-4" Districts (Mobile Home Park Districts).
4-0208. Regulations for "C-1" Districts (Light Commercial Districts).
4-0209. Regulations for "C-2" Districts (General Commercial Districts).
4-0210. Regulations for "I-1" Districts (Light Industrial Districts).
4-0211. Regulations for "I-2" Districts (Heavy Industrial Districts).
4-0212. Regulations for "R-1E" Districts (Rural Estate Districts).

SECTION 4-0201. **ESTABLISHMENT OF DISTRICTS.** For purposes of this ordinance, the following classes of zoning districts are hereby established within the City of Harwood:

(1) A: Agricultural Use Districts

(2) R-1: Single Family Dwelling Districts

(3) R-2: One and Two Family Dwelling Districts

(4) R-3: Multiple Dwelling Districts

(5) R-4: Mobile Home Park Districts

(6) C-1: Light Commercial Districts

(7) C-2: General Commercial Districts

(8) I-1: Light Industrial Districts

(9) R-1E: Rural Estate District

SECTION 4-0202. **OFFICIAL ZONING MAP.**

(1) Adoption of Official Zoning Map. The boundaries of the districts set forth in Section 1 are shown upon the official zoning map, which, together with all explanatory matter thereon, is hereby incorporated into the terms of this ordinance by reference. The official zoning map shall be located in the office of the City Auditor and shall be the final authority as to the current zoning status of land located within the corporate limits of the City of Harwood and all area within the extra-territorial jurisdiction of the City as provided and limited by Section 40-47-01.1 of the NDCC.

(2) Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(a) Boundaries indicated as appropriately following the center lines of railroad lines, highways, streets, alleys, easements, or waterways shall be construed to follow such center lines;

(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(c) Boundaries indicated as approximately following city limits shall be construed as following such city limits;

(d) In subdivided property and where a district boundary divides a lot or parcel of property, the location of any such boundary, unless the same is indicated by dimensions shown on the official zoning map, shall be determined by use of the scale appearing on such map.

(e) The Board of Adjustment shall, upon application or upon its own motion, determine the location of boundaries in cases where uncertainty exists.

(3) Applicability of District Regulations. Except as may be otherwise provided herein:

(a) No structure shall hereafter be erected, reconstructed, structurally altered, enlarged, added to or moved, nor shall any structure or land be used for any purpose other than for a use permitted herein for the district in which such structure or land is located.

(b) No structure shall hereafter be erected, reconstructed, structurally altered, enlarged, or moved so as to exceed the building height limit established herein for the district in which such structure is located.

(c) No lot shall be so reduced or diminished nor shall any structure be so enlarged or moved as to reduce or diminish the yards, lot area or open space required herein in the district where located.

(d) No yard or other open space required herein for any building shall be considered as providing a yard or open space for any other building, and no yard or open space on an adjoining lot or parcel of property shall be considered as providing a yard or open space on a lot whereon a building is to be erected.

(e) Every building hereafter erected shall be located on a lot, as defined herein, and in no case shall there be more than one main building on one lot except as may be otherwise provided herein.

(f) Every building containing one or more dwelling units or guest rooms shall be erected on a lot at least one line of which abuts for not less than twenty-five feet along a public street or along a permanent, unobstructed easement of access to the lot from a public street.

SECTION 4-0203. **REGULATIONS FOR "A" DISTRICTS (AGRICULTURAL USE DISTRICTS).** In "A" Districts the following regulations shall apply, except as otherwise provided herein:

(1) Uses Permitted:

(a) Crop and tree farming, truck gardening, plant nurseries, or non-commercial greenhouses.

(b) Single-family dwellings.

(c) Accessory buildings used in connection with single-family dwellings or in connection with farming operations.

(2) Building Height Limits: Two and one-half stories, but not exceeding thirty-five feet in height.

(3) Lot Area Required: Not less than ten acres for each single-family dwelling unit.

(4) Open Grazing, subject to the following:

(a) No more than three animals per acre are allowed upon any parcel of land; and

(b) A maximum of eight animals is allowed for any one parcel of land, regardless of the total acreage of that parcel.

Source: Sec. 3, Ord. 2007-2 (2007).

(5) Conditionally Permitted Uses: The following uses may be permitted in the "A" District subject to the conditions hereafter imposed for each use and subject further to review and approval of the City:

(a) Feedlots, subject to the following conditions:

(1) The feedlot shall have a minimum setback of one-half mile from any residential areas.

(2) The feedlot operator shall provide the City with a plan indicating how animal waste will be controlled, contained and managed.

(3) The feedlot operator shall obtain all necessary North Dakota Department of Health permits, in addition to any county or township permits.

(b) Confined animal feeding operations, subject to the following conditions:

(1) The operation is an existing confined animal feeding operation and is seeking to expand.

(2) The operation shall have a minimum setback of one-half mile from any residential areas.

(3) The operation shall provide the City with a plan indicating how animal waste will be controlled, contained and managed.

(4) The operation shall obtain all necessary North Dakota Department of Health permits, in addition to any county or township permits.

Source: Sec. 4, Ord. 2007-2 (2007).

SECTION 4-0204. **REGULATIONS FOR "R-1" DISTRICTS (SINGLE FAMILY DWELLING DISTRICTS).** In "R-1" Districts the following regulations shall apply, except as otherwise provided herein:

(1) Statement of Intent: The provisions of the R-1 District are intended to apply to neighborhoods with low density, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted.

(2) Permitted Uses:

(a) Single-family detached dwellings.

(b) Publicly owned and operated parks, playgrounds, and recreational facilities.

(c) Schools and churches.

(d) Essential services and public buildings.

(e) State-licensed group homes serving eight or fewer developmentally disabled persons.

(f) Accessory buildings, provided that they shall be operated as required by Subsection 2 of the Supplementary District Regulations of this Ordinance.

(g) Home occupations, provided that they shall be operated as required by Subsection 8 of the Supplementary District Regulations of this Ordinance.

(h) Family Child Care home.

(3) Conditionally Permitted uses: The following uses may be permitted in the R-1 District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Council.

(a) Child Care Facilities licensed by the State Department of Human Services

(b) Private Non-Commercial recreational or cultural faculties; subject to the following conditions:

1. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare, either existing or proposed, and the site shall be so planned so as to provide all ingress and egress directly onto or from said major thoroughfare.

2. Front, side and rear yards shall be at least sixty (60) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a health condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.

(4) Retirement, Nursing, or Convalescent Homes: Not to exceed a height of two (2) stories, when the following conditions are met:

(a) The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one (1) bed in the convalescent home there shall be provided not less than fifteen hundred (1,500) square feet of open space. The 1,500 square feet of land area per bed shall provided for landscaped setting, off-street parking, service drives, loading space, yard requirements and space required for accessory uses. The 1,500 square feet requirement is over and above the building area.

(b) No building shall be closer than forty (40) feet from any property line.

(5) Yard Requirements for the R-1 District.

(a) Front yard: Not less than thirty feet.

(b) Rear yard: Not less than thirty feet.

(c) Side yard: Not less than ten feet or twelve percent of the lot width, whichever is less.

(d) Lot Width: Not less than seventy feet.

(e) Lot Area: Not less than ten thousand square feet for a single-family dwelling and twelve thousand square feet for a two-family dwelling.

(f) Lot Coverage: Not more than fifty percent of the area of the lot shall be covered by the main buildings and all accessory buildings and the total ground area covered by accessory buildings shall be equal to or less than the ground floor area of the main building or buildings.

(6) Parking Requirements: Two off-street spaces for each single family dwelling and four parking spaces for each two-family dwelling. For institutional establishments or places of assembly, one parking space shall be required for every four seats, or beds, or one parking space for every three employees on the maximum shift.

SECTION 4-0205. **REGULATIONS FOR "R-2" DISTRICTS (ONE AND TWO FAMILY DWELLING DISTRICTS.)**

(1) Statement of Intent. The provisions of the R-2 District are intended to apply to neighborhoods of low to medium density, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted.

(2) Permitted Uses.

(a) Any use permitted in the R-1 District.

(b) Two-family dwellings, including condominiums and two-unit townhouses.

(c) State-licensed group homes serving eight or fewer developmentally disabled persons

(3) Conditionally Permitted Uses. The following uses may be permitted in the R-2 District subject to the conditions hereinafter imposed for each use and subject further to review and approval of the City Council.

(a) Any conditional use permitted in the R-1 District.

(b) Medical and/or Dental Clinics, subject to the following conditions:

1. No such establishment shall be permitted closer than 1,000 feet to the boundary of any district where medical or dental clinics are allowed by right, nor shall any clinic be located within 1,000 feet of any active clinic supplying the same needs for the general area involved. Measurement of distance indicated shall be along usual routes of pedestrian travel.

2. The site shall be so located as to have at least one (1) property line abutting a major thoroughfare, either existing or proposed, and all ingress and egress for the site shall be directly onto said major thoroughfare, or a marginal access.

(c) Offices for architects, engineers, attorneys, real estate sales persons or similar professional persons, subject to the following:

1. The office shall only be established in a building which was in existence at the time of the effective date of this ordinance.

2. There shall not be more than one business per structure.

3. Delivery areas shall be obscured from all residential view with a wall six (6) feet in height.

(d) Multiple dwelling structures containing from three to twelve units, subject to the following:

1. The building shall conform to the yard requirements set forth for R-1 Districts.

2. The site for the building shall have at least one property line which adjoins, either directly or across the alley, an R-2, R-3, or a Commercial District.

(e) No such establishment shall be permitted closer than 1,000 feet to the boundary of any district where medical or dental clinics are allowed by right, nor shall any clinic be located within 1,000 feet of any active clinic supplying the same needs for the general area involved. Measurement of distance indicated shall be along usual routes of pedestrian travel.

(f) The site shall be so located as to have at least one (1) property line abutting a major thoroughfare, either existing or proposed, and all ingress and egress for the site shall be directly onto said major thoroughfare, or a marginal access.

(3) Multiple dwelling structures containing three or four units, subject to the following conditions:

(a) The site for the building shall have at least one property line adjoining, either directly or across an alley, an R-2, R-3 or Commercial District.

(b) The building shall conform to the yard requirements set forth for in this Ordinance, except for lot area, which shall be a minimum of 9,000 square feet for three unit buildings and 11,000 square feet for four unit buildings. Three or four unit town homes may be permitted in conformance with the yard requirements set forth in this Ordinance.

(c) Building Height Limits. Two and one-half stories, but not exceeding thirty-five feet in height.

(6) Yard requirements for R-2 Districts:

(a) Front yard: Not less than thirty feet.

(b) Rear yard: Not less than thirty feet.

(c) Side yard: Not less than ten feet or twelve percent of the lot width, whichever is less.

(d) Lot Width: Not less than seventy feet.

(e) Lot Area: Not less than twelve thousand square feet.

(f) Lot Coverage: Not more than fifty percent of the area of the lot shall be covered by the main buildings and all accessory buildings and the total ground area covered by accessory buildings shall be equal to or less than the ground floor area of the main building or buildings.

(6) Parking Requirements. Two off-street spaces for each single-family dwelling and for each unit in two-family dwellings.

SECTION 4-0206. **REGULATIONS FOR "R-3" DISTRICTS (MULTIPLE DWELLING DISTRICTS).**

(1) Statement of Intent. The provisions of the R-3 District are intended to apply to neighborhoods of medium to high density wherein a variety of housing types and certain educational, religious, recreational, and other activities compatible with residential development are permitted.

(2) Permitted Uses.

(a) Any use permitted in the R-2 Districts.

(b) Multiple dwellings containing more than eight units, including condominiums and townhouses.

(3) Conditionally Permitted Uses. The following uses may be permitted in the R-3 District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Council as required in this Ordinance.

(a) Any conditional use permitted in the R-2 District.

(b) Convenience Establishments, as defined by this Ordinance, and subject to the following conditions:

1 No such establishment shall be permitted closer than 1,000 feet to the boundary of any district where similar facilities are generally permitted, nor shall any new establishment of a specific kind be located within 1,000 feet of an active establishment of the same nature found suitable for supplying the same needs for the general area involved. Measurement of distances indicated shall be along usual routes of pedestrian travel.

2. Strong preference shall be given to location of complementary additions in the immediate vicinity of existing convenience establishments of other types in patterns which facilitate easy pedestrian circulation from the surrounding area and from one establishment to another, and to arrangements which encourage joint use of parking areas and automotive entrances and exists.

3. In the environment in which convenience establishments are intended to be permitted, it is the intent of this Ordinance that no such establishment or group of establishments shall be of such size or character as to create the impression of general commercial development. Therefore, in addition to other limitations designed to achieve these ends, no individual retail convenience establishment shall have a gross floor area exceeding 5,000 square feet.

4. A front yard 20 feet in depth shall be provided, and where the lot adjoins a street on more than one side, a yard 20 feet in depth shall be provided adjacent to all streets. Side yards shall be 10 feet in width adjacent to residential lots, but where the side of the lot is adjacent to a lot on which another convenience establishment is located or is being constructed, or is definitely to be constructed, no side yard need be provided if the structures involved are to have a common or party wall, or are to have no space between their walls. If there is to be space between the walls of adjacent structures housing convenience establishments or their accessory uses, such space shall be at least five feet in width. Rear yards shall be 25 feet in depth.

(3) Building Height Limits. Three and one-half stories or forty-five feet, whichever is less, and as follows:

(a) 1,600 square feet for each dwelling unit plus 200 square feet for each bedroom, with a minimum permitted lot area of 8,000 square feet. Efficiency units shall be considered one-bedroom units for the purpose of lot computation.

(b) On corner lots, a side yard facing a public way shall be a minimum of 12 feet, except when the driveway to a garage is located in said side yard, in which case the side yard shall be a minimum of 20 feet, except for lots of 50 feet or less, in which case the minimum setback for the garage shall be 18 feet. In this case, the house may be 12 feet, but garage must be a minimum of 20 feet on lots greater in width than 50 feet, or 18 feet on lots 50 feet or less in width.

(c) 12% of the lot width, with a maximum of 12 feet.

(d) For main building and all accessory buildings.

(e) For every building over 35 feet in height, required yards shall be increased by one (1) foot for every two (2) feet of building height over the limit.

(f) A duplex which consists of 2 units on one lot is required to have a minimum lot area of 6,000 square feet. A twin home which consists of 2 units side by side with a common party wall is required to have a minimum lot area of 3,000 square feet for each unit.

(g) A duplex is required to have a minimum lot width of 50 feet, whereas a twin home is required to have a minimum lot width of 25 feet for each unit.

(h) A duplex is required to have a minimum lot width of 60 feet, whereas a twin home is required to have a minimum lot width of 30 feet for each unit.

(4) Yard Requirements (except as outlined above).

(a) Front yard: Not less than twenty feet.

(b) Rear yard: Not less than thirty-five feet.

(c) Side yard: Not less than twelve feet.

(5) Lot Requirements:

(a) Lot Width: Not less than one hundred feet.

(b) Lot Depth: Not less than one hundred seventy-five feet, except that such requirement shall not apply to lots platted prior to the effective date of this ordinance.

(c) Lot Coverage: Not more than fifty percent of the area of the lot shall be covered by the main building and all accessory buildings and the total ground area covered by accessory buildings shall be equal to or less than the ground floor area of the main building or buildings.

(d) Lot Area: Not less than six thousand square feet for each dwelling or dwelling group having four dwelling units or less, with a maximum allowable units per building to be eight. Apartment

buildings housing more than four families shall have a lot area of not less than eight thousand five hundred square feet and the minimum lot area per dwelling unit shall not be less than the following:

1. Efficiency one-room apartment: One thousand one hundred square feet.

2. One bedroom apartment: On thousand five hundred square feet.

3. Two bedroom apartment: One thousand seven hundred square feet.

4. Three or more bedroom apartment: One thousand eight hundred square feet.

(e) The maximum number of apartment units per acre shall be twenty-four.

(6) Parking Requirement: Two off-street spaces for each single-family dwelling and two off-street spaces for each unit in a multiple family dwelling.

SECTION 4-0207. **REGULATIONS FOR "R-4" DISTRICTS (MOBILE HOME PARK DISTRICTS).** In "R-4" Districts the following regulations shall apply, except as otherwise provided herein:

(1) Uses permitted: Mobile home parks complying with requirements hereinafter stated.

(2) Requirements:

(a) The minimum area of the tract shall be eight acres,

(b) The number of spaces completed and ready for occupancy before the first occupancy shall be twenty-five.

(c) The minimum length of residential occupancy shall be thirty days.

(d) The minimum lot size shall be six thousand square feet with a minimum width of fifty feet. Each lot shall be used for parking not more than one mobile home unit. The mobile home stand and mobile home unit in the expanded position shall not cover more than fifty percent of the mobile home lot including all pertinent enclosed structures.

(e) The minimum set back required for all mobile home stands or units shall be not less than thirty and not more than forty feet from the front lot line. No mobile home stand or unit shall be closer than ten feet from the side lot lines and there shall be a minimum of fifteen feet between units. The minimum side yard required shall be the larger of ten percent of the lot width or five feet. The minimum rear yard required shall be not less than twenty percent of the lot depth.

(f) Each sight shall abut on and have access to a street. This street shall be a minimum of twenty-six feet in width.

(g) Each mobile home stand or unit shall be provided with an off-street paved or graveled parking space large enough to accommodate a minimum of two cars. Such paved or graveled area shall have minimum dimensions of 20′ x 20′ and shall be located behind the property line on dedicated streets.

(h) All pavement shall be constructed in accordance with the specifications of the City Engineer for flexible pavement in mobile home parks or subdivisions.

(i) All drainage structures shall be in strict compliance with the subdivision regulations of the City.

(j) All mobile home parks or subdivisions shall be provided with buried electrical service facilities. No overhead facility shall be permitted.

(k) All mobile home parks or subdivisions shall be provided with buried telephone service facilities. No overhead distribution systems shall be permitted.

(l) Fuel shall be distributed to mobile home units or stands by an underground piping system. If not available, cooking gas cylinders shall be permitted up to one hundred pound class. No outside fuel storage tanks shall be permitted except for storage units as are required for the operation of the distribution system.

(m) All convenience establishments of a commercial nature, including stores, coin-operated laundries and dry cleaning establishments, laundry and dry

cleaning agencies, and beauty and barber shops, may be permitted in mobile home parks subject to the following:

1. Such establishments in the parking spaces primarily related to their operations shall not occupy more than ten percent of the area of the park, shall be located, designed and intended to serve frequent trade or service needs of persons residing in the park, and shall present no visible existence of their commercial character from any portion of any residential district outside the park.

(n) All improvements of the land, including buildings, and all appurtenances thereto, shall conform to all applicable laws, ordinances and regulations. The minimum standards established herein shall not be construed as lowering the standards established by deed restrictions and covenants running with the land, other laws, ordinances or regulations.

(o) All mobile homes shall be placed on foundations and skirted.

SECTION 4-0208. **REGULATIONS FOR "C-1" DISTRICTS (LIGHT COMMERCIAL DISTRICTS).** In "C-1" Districts the following regulations shall apply, except as otherwise provided herein:

(1) Uses permitted:

(a) Neighborhood retail sales and service uses such as: art shops, artists and professional studios, beauty parlors, clothing stores, drugstores, grocery stores or supermarkets, hardware stores, household appliances and fixture repair shops, meat markets, branch post offices, storage garages, self-service laundries and dry cleaning shops or laundries having not more than 3,000 square feet of floor area.

(b) Shops for the following similar occupations: barber, cabinetmaker, electrician, jewelers, watchmaker, locksmith, optician, painter, plumber, shoemaker, tailor.

(c) Business and professional offices.

(d) Bakeries, cafes, ice cream shops, and restraints which prepare food stuffs for onsite retail sale

only, including licensed food and beer and food and beverage establishments.

(e) Automobile parking lots.

(f) Advertising signs appurtenant to the use of property in which said signs are displayed.

(g) Advertising signs or outdoor advertising for which a permit has been issued pursuant to the provisions of Section 4-0902 of the City's ordinances.

(2) Conditional uses: The following uses may be permitted as a special use upon approval of the planning commission and the City Council. Application for such permission shall be made in accordance with this ordinance relating to special use permits:

(a) Multi-family dwelling units.

(b) Sleeping rooms, apartments or owner-occupied dwellings located within commercial businesses or service establishments provided that the residential use is secondary to the main commercial use of the building and occupies fifty percent or less of the total floor area.

(c) Amusements and recreational facilities.

(d) Funeral homes.

(3) Building Height Limits: Three and one-half stories or forty-five feet, whichever is less.

(4) Yard Requirements: None.

(5) Lot Requirements: None.

(6) Additional Requirements: A buffer strip consisting of trees, other plantings or fences, creating a visual screen of a minimum of eight feet in height, shall be provided when a commercial use abuts any residential district and said buffer strip shall run the entire length of the boundary between the two uses.

SECTION 4-0209. **REGULATIONS FOR "C-2" DISTRICTS (GENERAL COMMERCIAL DISTRICTS).** In "C-2" Districts the following regulations shall apply, except as otherwise provided herein:

(1) Uses permitted:

(a) Uses permitted in "C-1" Districts.

(b) Automobile parking structures.

(c) Automobile display and sales rooms and lots.

(d) Automobile service stations and car washing facilities.

(e) Trailer camps.

(f) Theaters and assembly halls, but not including outdoor theaters.

(g) Bus, taxi and truck yards.

(h) Hotels and motels.

(i) Pedestrian malls, covered or open.

(j) Public or semi-public utilities.

(k) Radio and television broadcasting stations and transmitters and microwave radio relay stations.

(l) Other retail or wholesale sale or service uses which are similar in character to those enumerated above, and which will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare, and will not impair the use, enjoyment or value of any property.

(2) Conditional uses: The following uses may be permitted as conditional uses upon the approval of the planning and zoning commission and City Council. Application for such permission shall be made in accordance with this ordinance relating to conditional use permits:

(a) Storage facilities for building materials such as lumber, steel, concrete blocks or pipe.

(b) Sleeping rooms, apartments or owner-occupied dwellings located within commercial businesses or service establishments provided that the residential use is secondary to the main commercial use of the building and occupies 50% or less of the total floor area.

(c) Wholesale businesses.

(d) Storage buildings and warehouses.

(3) Building Height Limits: Three and one-half stories or forty-five feet, whichever is less.

(4) Yard Requirements: None.

(5) Lot Requirements: None.

(6) Additional Requirements: A buffer strip consisting of trees, other plantings or fences, creating a visual screen of a minimum of eight feet in height, shall be provided when a commercial use abuts any residential district and said buffer strip shall run the entire length of the boundary between the two uses.

SECTION 4-0210. **REGULATIONS FOR "I-1" DISTRICTS (LIGHT INDUSTRIAL DISTRICTS).** In "I-1" Districts, the following regulations shall apply, except as otherwise provided herein:

(1) Intent. This district is intended to include lands suited by topography and other natural conditions for light industrial development, including light manufacturing, processing, storage, wholesaling, and distribution operations, and other processes and operations which do not require large numbers of workers; do not generate heavy truck traffic, do not emit significant amounts of noise, smoke, dust or glare; and do not require large volumes of public water or sewer. Limited commercial use is allowed in this district to serve the uses for which the district is primarily intended. Sewer, water, fire protection, and other essential services shall be provided either by public utilities or approved private means.

(2) Minimum Dimensional Requirements. The minimum area for Industrial Districts shall be 10 acres. Industrial Districts of less than 10 acres are allowed provided they abut another Industrial District and the combined acreage of the districts is 10 acres or more. Different Industrial Districts such as Light Industrial, Heavy Industrial, and Industrial Park Districts may abut each other; however, the districts and uses therein must remain separate.

(3) Permitted Principal Uses and Structures. The following uses shall be permitted:

(a) Small business machine sales, repair and service shops, auto supply stores, carpenter and cabinet shops, and household appliance repair shops.

(b) Furniture and home furnishing stores, hardware stores, household appliance stores, interior decorating shops.

(c) Plumbing shops, sheet metal shops, roofing shops, mini-storage buildings.

(d) Airports, railroads, essential public utilities, and public service installations.

(e) Animal hospitals or veterinary clinics.

(f) Radio or television transmitting stations, vocational or training schools.

(g) Underground oil and gas storage facilities, as approved by the City Engineer and Fire Chief.

(h) Storage of flammable liquids above grade, and wholesale, subject to Uniform Fire Code regulations.

(i) Storage of liquefied gases, subject to Uniform Fire Code regulations.

(j) Light manufacturing industries consisting of the processing and treatment of goods and foodstuffs, except alcohol or alcoholic beverages, fish, meat products, vinegar and yeast.

(k) Farm implement dealerships.

(l) Automobile, airplane and other assembly plants.

(m) Building material yards, contractor yards, and lumber yards.

(n) Other wholesale, light manufacturing, construction, or service uses which are similar in character to those enumerated above; and will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare; and will not impair the use, enjoyment, or value of any property. The area shall not be used as a junk yard, defined as "any area used for the storage, keeping or abandonment of junk, including scrap metals, or other scrap materials or goods, or

used for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof."

(3) Permitted Accessory Uses and Structures. Uses and structures which are customarily accessory and clearly incidental to permitted uses and structures shall be permitted, including solar energy systems

(4) Conditional Uses. The temporary storage of hazardous materials, subject to Uniform Fire Code, shall be considered as a conditional use.

(5) Special Permit Uses. None.

(6) Minimum Lot Requirements.

(a) Front yard - None, except for along any streets there shall be a front yard of not less than 25 feet.

(b) Side and rear yard - None.

(7) Minimum yard requirements. None.

(8) Maximum Lot Coverage by Buildings. None.

(9) Minimum Floor Area. None.

(10) Maximum Height of Buildings. The maximum height of any building shall be 100 feet.

(11) Sign Limitations.

(a) Freestanding signs may be erected not exceeding 45 feet in height as a permitted use and 100 feet in height as a conditional use. The sign face shall not exceed 1 square foot per 1 foot of street frontage where the sign is to be placed, up to a maximum of 75 square feet; but in any event, 32 square feet is permitted. The maximum total area of all sign faces shall be six times the maximum permitted size per sign face.

(b) Wall signs may be erected with a sign face not exceeding the larger of 20 percent of the facade to which it is attached or 60 square feet up to a maximum of 200 square feet. The sign shall not exceed above the top of the wall or facade to which it is attached.

(c) Projecting signs may be erected in place of freestanding signs and with a sign face of not more than 50 square feet. The maximum total area of all the sign faces shall be 100 square feet. The sign shall not extend above the top of the wall or facade to which it is attached.

(d) Roof signs may be erected in place of freestanding signs and not exceeding the district height restrictions or 20 feet above the top of the roof, whichever is less. The sign face shall not exceed 1 square foot per 1 foot of street frontage up to a maximum of 50 square feet; but in any event, 32 square feet is permitted. The maximum total area of all sign faces shall be two times the maximum permitted size per sign face.

(e) Marquee signs may be erected with sign faces up to an additional 100 percent in area beyond that permitted for freestanding signs, provided the sign faces of other signs which may be permitted are reduced. The increase in area permitted the marquee sign shall be equal to the reduction in area of other permitted signs.

(12) Off Street Parking Requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way.

(13) Other Requirements. A buffer zone is required where any Light Industrial District abuts a Residential District. Buffer zones shall be determined by the Planning & Zoning Commission shall be a maximum of 30 feet in depth from the property line of a lot zoned Residential or from a street right-of-way which separates the Light Industrial District from a Residential District. The buffer zone shall be used for tree plantings, hedges, walls, fences, or similar devices as required by the Planning & Zoning Commission, and grass shall be planted and maintained in all buffer zones.

SECTION 4-0211. **REGULATIONS FOR "I-2" DISTRICTS (HEAVY INDUSTRIAL DISTRICTS).** In "I-2" Districts the following regulations shall apply, except as otherwise provided herein:

(1) Uses permitted:

(a) Uses permitted in "I-1" districts, except multi-family dwellings.

(b) Grain elevators, mill and processing facilities.

(c) Manufacturing and food processing.

(d) Concrete mixing and manufacturing of concrete products.

(e) Foundries.

(f) Petroleum products storage facilities.

(g) Pelleting plants.

(h) Other industrial uses which are not objectionable by reason of emission of odor, dust, smoke, gas, vibration or noise, or which impose hazard to health or property. Adult entertainment centers complying with subsection (6) of this section.

(i) Other industrial uses which are not objectionable by reason of emission of odor, dust, smoke, gas, vibration or noise, or which impose hazard to health or property.

(2) Building Height Limits: None.

(3) Yard Requirements: All industrial uses shall be set back at a minimum of one hundred feet from any residential property line.

(4) Lot Requirements: None.

(5) Additional Requirements: A buffer zone is required where any Light Industrial District abuts a Residential District. Buffer zones shall be determined by the Planning & Zoning Commission shall be a maximum of 30 feet in depth from the property line of a lot zoned Residential or from a street right-of-way which separates the Light Industrial District from a Residential District. The buffer zone shall be used for tree plantings, hedges, walls, fences, or similar devices as required by the Planning & Zoning Commission, and grass shall be planted and maintained in all buffer zones.

(6) Adult Entertainment Centers. Adult Entertainment Centers, as herein defined, shall be permitted in "I-2" Districts provided that their location shall be limited according to the provisions of this subsection:

(a) Definitions:

1. Adult Bookstore: An enclosed building having as a substantial or significant portion of its

stock in trade, books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

2. Adult Cinema: An enclosed building used on a regular basis for presenting pictorial materials or other visual image by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons therein in return for the payment of a consideration, irrespective of the number of patrons who may be able to view the presentation at one time.

3. Adult Entertainment Center.

   a. An adult bookstore; or

   b. An adult cinema; or,

   c. An adult live performance theater.

4. Adult Live Performance Theater: An enclosed building used on regular basis for presenting live performances by singers, musicians, dancers, comedians, models, or any similar type of entertainers, which live performances are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons.

5. Specified Anatomical Areas:

   a. Less than completely and opaquely covered:

      (i) Human genitals, pubic region;
      (ii) Buttocks;
      (iii) Female breast below a point immediately above the top of the areola; and

   b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

6. Specified Sexual Activities:

a. Human genitals in a state of sexual stimulation or arousal.

b. Acts of human masturbation, sexual intercourse or sodomy;

c. Fondling of human genitals, pubic region, buttock or female breast.

(b) Location: Notwithstanding anything in this zoning ordinance to the contrary, an adult entertainment center shall be permitted in "I-2" Districts and in no other district, and then only if the adult entertainment center meets the following conditions:

1. The adult entertainment center is located no closer than 1250 feet from any pre-existing church, school, or property zoned "R-1", "R-2", "R-3", or "R-4".

2. The center displays no signs visible from the exterior of the center, except for signs identifying the center as an adult entertainment center.

3. No materials depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of the center.

4. The business premises of the center which are generally open to its patrons are open equally at the same time without charge to members of the city police force who may wish to enter thereon provided the entry is in the course of the discharge of the policeman's duties.

SECTION 4-0212. **REGULATIONS FOR "R-1E" DISTRICTS (RURAL ESTATE DISTRICTS).**

(1) STATEMENT OF INTENT. This district is intended to provide low-density, limited-growth residential areas. It is designed to accommodate residential development opportunities for those who desire low-density or estate living and are willing to live in more remote locations such as in the City's extraterritorial jurisdiction, and to assume the costs of providing many of their own services and amenities. In some of these areas municipal

services may never be provided because the City must concentrate its limited resources in areas where more intense future development is logical. The low density allowed in this district is needed to preserve and support the existing public infrastructure. Other areas, however, may start as rural residential in character and later be annexed into the City, which requires forethought on the part of City and developer on lot and street layout to provide for further splitting of lots. The low densities permitted in this district generally permit on-site water supply and waste disposal systems, though in some cases soil conditions may require community type systems. This most likely would be done through the established rural water and sewer districts. Lots of ten (10) or more acres in size, though primarily intended for rural residential purposes, would be allowed under the agricultural district as a conditional use.

(2) MINIMUM DIMENSIONAL REQUIREMENTS. The minimum area for this district shall be ten (10) acres.

(3) PERMITTED USES.

(a) Single-family detached dwellings.

(b) Schools and churches.

(c) State-licensed group homes serving six (6) or fewer developmentally disabled persons.

(d) Publicly-owned and operated parks, playgrounds, and recreational facilities.

(e) Essential services and public buildings.

(f) Accessory buildings, provided that they shall be located as required in Chapter 4-03, Section 2 of this ordinance.

(g) Home occupations, provided they shall be operated as required in Chapter 4-03, Section 8 of this ordinance.

(4) CONDITIONALLY PERMITTED USES. The following uses may be permitted in the R-1E District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Council.

(a) Child care facilities licensed by the State Department of Human Services.

(b) Private non-commercial recreational or cultural facilities, subject to the following conditions:

1. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare, either existing or proposed, and the site shall be so planned so as to provide all ingress and egress directly onto or from said major thoroughfare.

2. Front, side and rear yards shall be at least sixty (60) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.

(c) Retirement, Nursing or Convalescent Homes: Not to exceed a height of two (2) stories, when the following conditions are met:

1. The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one (1) bed in the convalescent home there shall be provided not less than one thousand five hundred (1,500) square feet of open space. The one thousand five hundred (1,500) square feet of land area per bed shall provide for landscape setting, off-street parking, service drives, loading space, yard requirements and space required for accessory uses. The one thousand five hundred (1,500) square feet requirement is over and above the building area.

2. No building shall be closer than forty (40) feet from any property line.

(d) Farm animals.

(e) Accessory buildings greater than 1,000 square feet.

(5) YARD REQUIREMENTS.

		One-Family	Accessory Buildings	Other Buildings
a.	Lot Area Minimum (sq ft)	43,560		
b.	Lot Width Minimum (ft)	120		
c.	Lot Depth Minimum (ft)	200		
d.	Front Yard Minimum (ft)(1)	30	30	30
e.	Rear Yard Minimum (ft)	30	30	30
f.	Side Yard Minimum (ft)	10(2)	10(2)	10
g.	Maximum Lot Coverage (3)	15%		
h.	Maximum Height (ft)	35	35	(4)

(1) Front yard setbacks from existing or future streets shall be sixty-five (65) feet from the centerline of the street for local streets, seventy (70) feet for collector or minor arterial streets and ninety (90) feet for primary arterial streets.

(2) On corner lots, a side yard facing a public way shall be a minimum of thirty (30) feet.

(3) For any main building and all accessory buildings.

(4) For any building over thirty-five (35) feet in height, required yards shall be increased by one (1) foot for every two (2) feet of building height over the limit.

(6) OTHER APPLICABLE REGULATIONS.

Chapter 4-03. Supplementary District Regulations

Any subdivision which is submitted shall have an accompanying area development plan showing how development could occur on each lot at a density suitable for a single-family residential district should the area ever be annexed into the City.

Area Plan showing sewer and water system or septic tank/drainfield and well placement with approval by County Sanitarian.

CHAPTER 4-03

SUPPLEMENTARY DISTRICT REGULATIONS.

SECTIONS:

4-0301. General Fencing and Screening Requirements.
4-0302. Accessory Building and Use Provisions.
4-0303. Exceptions.
4-0304. Erection of More Than One Principal Structure on a Lot.
4-0305. Structures to Have Access.
4-0306. Currently Licensed Motorized Vehicle and Equipment Parking in Residential District.
4-0307. Parking and/or Storage of Certain Vehicles and Materials.
4-0308. Provisions of Home Occupations.
4-0309. Wireless Telecommunications.

SECTION 4-0301. **GENERAL FENCING AND SCREENING REQUIREMENTS.**

(1) DEFINITION OF FENCE. An artificially constructed structure of any material or combination of material erected to enclose or screen areas of land.

(2) GENERAL FENCING AND SCREENING REQUIREMENTS FOR RESIDENTIAL AREAS. In any residential district, fences, hedges, and plantings may be permitted in the buildable area and in any required yard, or along the edge of any yard, provided that no fence or hedge along the sides or front edge of any required front yard shall be over two and one-half (2½) feet in height, except on through lots or double frontage lots where one of the front yards is intended to serve as the rear yard and is consistent with the other lots on the block a fence or hedge may be up to six (6) feet in height. All fencing and screening shall meet visibility requirements for intersections by not impeding vision between a height of two and one-half (2½) feet and ten (10) feet within thirty (30) feet from the intersecting curb lines, or within twenty (20) feet from the intersecting property lines if there is no curb. Coordinated fencing schemes for the block are strongly encouraged, and if possible developed during the subdivision process. No fence or hedge within any buildable area or along any side or rear lot line shall be over six (6) feet in height.

Open fences, such as split rail or chain link without slats, which permit direct vision through at least 75% of

the fence surface area shall be allowed a height of four (4) feet along the sides or front edge of any front yard.

(3) REQUIRED FENCING AND SCREENING. Where any business, industrial users, or multiple-family buildings of four (4) or more units (i.e., structure, parking or storage) abuts property zoned for residential use, that business, industry, or multiple-family building shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, industry, or multiple-family building of four (4) or more units is across the street from a residential zone, but not on that side of a business, industry, or multiple-family building considered to be the front yard. Provided, however, that the provisions of this section will not apply where a multiple-family building abuts a property also zoned for multiple-family use. All fencing and screening specifically required by this section shall meet visibility requirements for intersections and other requirements as stated herein, and shall consist of either a fence or green belt planting strip. A required screening fence shall be constructed of masonry, brick, wood or metal. Such fence shall provide a solid screening effect six (6) feet in height for multiple-family uses and at least six (6) feet in height for business and industrial uses. A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide substantial visual screening to a minimum height of six (6) feet. Earth mounding and berms may be used but shall not be used to achieve more than three (3) feet of the required screen, unless otherwise provided for by the City (i.e., PUD requirements).

(4) CONSTRUCTION STANDARDS. No fence, hedge, or plantings shall be constructed or maintained with electrified barbed wire, or other spiked materials which may pose injurious to public health and safety. Posts and other supporting structures used in the construction of fences shall be faced inward toward the property being fenced.

(5) PRIVATE RECREATIONAL FENCES. Private recreational fences shall conform to the provisions attached to residential fences. Swimming pool fences shall be six (6) feet in height.

(6) PUBLIC FENCES. Fences used in connection with public facilities and public recreational uses shall have a maximum height of ten (10) feet in any

yard and be of the open fence variety. Residential construction standards shall apply to all public fences.

(7) NON-RESIDENTIAL FENCES. Fences in light commercial areas shall conform to the provisions of residential fences. Fences in industrial or agricultural districts shall conform to the provisions attached to residential fences except where the Building Administrator determines it would be in the public welfare to add to fence height or to add security materials onto the fence. In such cases, fences shall not exceed ten (10) feet in height.

(8) TEMPORARY FENCES. Temporary fences needed to enclose sites, such as construction sites, do not require fencing permits.

SECTION 4-0302. **ACCESSORY BUILDING AND USE PROVISIONS.** Accessory buildings and uses, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

(1) An accessory building or use which is structurally attached to a main building, shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building.

(2) No detached accessory building or use in any residential district shall exceed one story or 15 feet in height.

(3) No detached accessory building or use shall be erected in any required yard, except a rear yard, nor shall it be located closer than three (3) feet to any side or rear lot line, subject to the following exceptions:

(a) Where the rear lot line is coterminous with any alley right-of-way, the accessory building or use shall not be closer than one (1) foot to such a rear lot line except when a garage is entered from an alley at right angles, it shall not be nearer than ten (10) feet to the rear lot line.

(b) On corner lots, an accessory building or use, including driveways on the street side, shall maintain the same side yard setback required for the main building, except for garages accessing a public street, which shall maintain a setback of 18 feet for lots of 50 feet or less and 20 feet for lots greater in width than 50 feet.

(c) In no instance shall an accessory building or use be located within a dedicated easement right-of-way.

(d) On through lots or double frontage lots where one of the front yards is intended to serve as the rear yard and is consistent with the other lots on the block, detached accessory buildings may be erected within twelve (12) feet of the intended real lot line and three (3) feet of the side lot line.

(e) Accessory buildings for townhouses may be constructed up to the interior lot line following the principal building scheme.

(4) No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced.

(5) No accessory building in a residential district shall exceed 1,000 square feet, except accessory buildings greater than 1,000 square feet are a conditional use in the Rural Estate District.

(6) All swimming pools as defined by this ordinance shall be regulated as follows:

(a) A permit shall be required for all swimming pools with a capacity of five thousand (5,000) gallons and/or two feet (2') or more of depth. Each application for a permit to construct or erect a swimming pool shall be accompanied by plans of sufficient detail to show:

1. The proposed location and its relationship to the other principal buildings on the lot.

2. The size of the pool.

3. Fencing and other fixtures existing on the lot, including utility location and trees.

4. The location, size and types of equipment to be used in connection with the pool, including but not limited to filter unit, pump, fencing and the pool itself.

5. That the requirements contained in subsection b below will be satisfied.

(b) All below ground pools for which a permit is required and granted shall be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening or other enclosure, or any combination thereof of sufficient density as to curtail access. If fences are employed, they shall be at least six feet (6') in height. Fences shall be of a noncorrosive material and shall be constructed so as to be not easily climbable. All fencing openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a sufficient height so as to be inaccessible to all small children. All fence posts shall be decay or corrosion resistant and shall be set in concrete bases or other suitable protection. The opening between the bottom of the fence and the ground or other surfaces shall not be more than four inches (4").

(c) All above ground pools shall be provided with safeguards to prevent children from gaining uncontrolled access.

SECTION 4-0303. **EXCEPTIONS.**

(1) Exceptions to Yard and Height Requirements.

Yard Encroachments: Every part of a yard or court shall be open and unobstructed by any building or structure, from its lowest point upward, except as follows:

(a) Accessory structures, as governed by Section 2 of Chapter 4-03, are permitted in rear yards.

(b) Awnings, balconies, sills, cornices, buttresses, and eaves may project not more than five (5) feet over or half the distance of the required side yard, whichever is less.

(c) Walks, steps for negotiating ground slopes, retaining walls, hedges and natural growth, fences, paved terraces and paved areas.

(d) Structures used ornamentally or for gardening or for private recreation purposes, and structures for essential services, all accessory to and customarily incidental to the principal use, are permitted in yards and courts, provided that a side

yard strip three (3) feet in width adjoining the side line of the lot shall be unobstructed by any structure or feature, except a fence or retaining wall.

(e) Uncovered porches, and steps to building entrances may not extend more than five (5) feet into any required front yard or required rear yard and not more than three (3) feet into any required side yard or court.

(f) Open work fire balconies and fire escapes may extend not more than three (3) feet into a required yard or court.

(g) Chimneys and flues may extend not more than two (2) feet into a required yard or court.

(2) Exceptions to Height Regulations: The height limitations contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, solar energy collectors and equipment used for the mounting or operation of such collectors, or other appurtenances usually required to be placed above roof level and not intended for human occupancy. Although exempted from structural height limitations, these structures should not significantly impair solar access of buildings or solar collector locations.

SECTION 4-0304. **ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.** In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

SECTION 4-0305. **STRUCTURES TO HAVE ACCESS.** Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

SECTION 4-0306. **CURRENTLY LICENSED MOTORIZED VEHICLE AND EQUIPMENT PARKING IN RESIDENTIAL DISTRICTS.**

(1) Purpose: To prevent the extended storage of those vehicles and equipment which (due to general factors of

nuisance) affects the well functioning and character of a residential neighborhood and the community.

(2) For the purposes of this ordinance, the following definitions apply:

(a) Currently Licensed Motorized vehicle or Equipment. Any motorized vehicle or equipment which is licensed and operable for the current year in which it is inspected by the City. This includes passenger vehicles and recreational equipment.

(b) Improved Parking Surface. Shall consist of a durable surface to include concrete, asphalt or gravel. Grass or dirt shall not constitute a durable surface.

(c) Residential Districts. Shall include the zoning districts specified as R-1; R-2; and R-3.

(d) Summer Parking/Storage. Shall include the period between April 15th to October 15th.

(e) Winter Parking/Storage - Shall include the period between October 15th to April 15th.

(3) Currently licensed vehicle or equipment parking on residential lots may be parked in the following-described areas:

(a) Garage/Carport. Parking or storage may occur entirely within a garage or carport.

(b) Required Rear Yard. Parking or storage may occur within the required rear yard provided that a 3' setback be maintained for rear or side lot lines. This requirement may be waived where written agreement authorizing this waiver is made between the subject property and those neighbors whose property physically touch the subject property. This agreement shall thereupon be presented to the City Planner for recording. The 3' setback requirement may also be waived should a 6' privacy fence or equivalent landscaped screened area exist between vehicle/equipment parking and the lot line.

(c) Required Side Yard. Parking or storage may occur within the required side yard provided that a 3' setback be maintained from the side lot line. This

requirement may be waived where written agreement authorizing this waiver is made between abutting neighbors to either side of the subject property and thereupon presented to the City Planner for recording. This requirement may also be waived should a 6' privacy fence or equivalent landscaped screened area exist between vehicle/equipment parking and the required side yard lot line.

Vehicles or equipment over 25' in length shall be parked behind the nearest portion of a building to the street unless written authorization is given by the neighbors in accordance with the process as described above. Should this authorization be given and recorded, these vehicles and equipment may extend no more than 25' past the nearest portion of a building to a street and be parked on an improved parking surface. However, under no circumstance shall vehicle or equipment parking occur within 3' of the sidewalk or, where no sidewalk exists, 1' from the front lot line.

(d) Required Front Yard. Currently licensed vehicles and equipment 25' or under in length may be parked during any period on an improved parking surface. For vehicles and equipment over 25' in length, summer parking/storage shall occur on an improved parking surface for a time not to exceed a total of 11 days in any fourteen (14) day period. For vehicle and equipment over 25' in length, winter parking/storage shall occur on an improved parking surface and for a time not to exceed 72 hours in any seven (7) day period. All vehicles and equipment shall maintain a 3' setback from the sidewalk or, where no sidewalk exists, a 1' setback from the front property line. Under no circumstances shall vehicle or equipment parking block the public right-of-way.

(e) No such vehicle or equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

SECTION 4-0307. **PARKING AND/OR STORAGE OF CERTAIN VEHICLES AND MATERIALS.** Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. No lot in any residential district shall be used for

the outdoor storage, keeping, or abandonment of junk, including scrap metals, or other scrap materials or goods, or used for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

SECTION 4-0308. **PROVISIONS OF HOME OCCUPATIONS.** Home occupations, as defined by this Ordinance, shall be subject to the following standards:

(1) No person other than members of the family residing on the premises shall be engaged in such occupations.

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the main floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation.

(3) There shall be no change to the outside appearance of the premises that would reflect the presence of a home occupation other than one sign, not to exceed one square foot, non-illuminated, and mounted flat against the wall of the principal building.

(4) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance detectable to the normal senses off the lot or in a neighboring dwelling unit. In the case of electrical interference, no equipment shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

(5) For uses within the dwelling unit, the entrance to the space devoted to such occupation shall be within the dwelling unit.

(6) No home occupation shall be permitted that creates the need for parking which frequently infringes upon the on-street parking in the neighborhood.

(7) The home occupation must be conducted entirely within a building.

(8) There shall be no exterior storage of equipment or materials used in the occupation.

SECTION 4-0309. **WIRELESS TELECOMMUNICATIONS.**

(1) Purpose. In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, these regulations are necessary to facilitate provision of wireless telecommunications services to the residents and businesses of the City, minimize adverse visual effects of towers through careful design and siting standards, avoid potential damage to adjacent properties from structural failure through structural standards and setback requirements, and maximize the use of existing and approved structures and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

(2) Definition.

(a) ANTENNA. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

(b) COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES. Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

(c) TOWER. Any ground or roof-mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

(3) Towers in Residential and Other Zoning Districts.

(a) Towers supporting amateur radio antennas and conforming to all applicable provisions of this ordinance are allowed only in the rear yard of residentially zoned property.

(b) Towers supporting commercial antennas and conforming to all applicable provisions of this ordinance are allowed only upon the following residential zoned property:

1. Tower sites, subject to review and approval by the City Commission.

2. Church sites, when camouflaged as steeples, bell towers, or other architecturally compatible structures; subject to review and approval as conditional uses.

3. Park sites, when compatible with the nature or the park and subject to review and approval as conditional uses.

4. Government, school, and utility sites, subject to review and approval as conditional uses.

5. Towers supporting commercial antennas and conforming to all applicable provisions of this ordinance are allowed within the Agricultural, Light Commercial, General Commercial and Light Industrial Districts, subject to review and approval as conditional uses.

6. Towers supporting commercial antennas and conforming to all applicable provisions of this ordinance are allowed within the Industrial District as a permitted use, provided the property does not abut an Agricultural, Light Commercial, or any Residential District. Otherwise, these towers would be considered conditional uses.

4. Co-Location Requirement. All commercial wireless telecommunication towers erected, constructed, or located within the City must comply with the following requirements:

(a) A proposal for a new commercial wireless telecommunications tower must not be approved unless the applicant proves that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a reasonable search radius of the proposed tower due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a

qualified professional engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned or equivalent equipment at a reasonable cost.

2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional engineer and the interference cannot be prevented as a reasonable cost.

3. Existing or approved towers and building within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified professional engineer.

4. Other unforseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(b) Any proposed commercial telecommunications tower must be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least one additional user.

(5) Tower Construction Requirements. All towers erected or constructed must be designed by a registered engineer.

(6) Tower and Antenna Design Requirements. Proposed or modified towers and antennas must meet the following design requirements:

(a) Towers and antennas must be designed to blend into the surrounding environment through the use of color, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

(b) Commercial wireless telecommunication towers must be a monopole design unless the City Commission determines that an alternative design would better blend into the surrounding environment or the applicant provides evidence to the City that an alternative design is necessary to successfully engage in commercial telecommunication services.

(7) Tower Setbacks. Towers must conform with each of the following minimum setback requirements:

(a) Towers must meet the setbacks of the underlying zoning district and may not encroach upon any easement.

(b) Towers must be set back from the public right-of-way a minimum distance equal to one half of the height of the tower including all antennas and attachments.

(c) Towers may not be located between a principal structure and a public street within a front or side yard, with the following exceptions:

1. In Industrial Zoning Districts, towers may be placed within a side yard abutting a public street, provided that the street is not along the perimeter of the district.

2. On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.

(d) A tower's setback may be reduced or its location in relation to a public street adjusted, at the sole discretion of the City Council to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure or if the applicant provides evidence that a setback reduction is necessary to successfully engage in commercial telecommunication services.

(8) Tower Height. All proposed towers must meet the following height limitations:

(a) The height of towers will be determined by measuring the vertical distance from the tower's center point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure and the tower must meet the height restrictions.

(b) Towers must conform to the following height restrictions:

1. In all residential zoning districts, the maximum height of any tower, including antennas and other attachments, will be the maximum height restriction for primary structures within that zoning district, unless otherwise provided for in Chapter 4-03, Section 9(3).

2. In all non-residential zoning districts, the maximum height of any tower, including all antennas and other attachments, must not exceed one foot for each two feet the tower is set back from a residential zoning district or a maximum height of 150 feet, whichever is less, unless the applicant provides evidence to the City that the proposed tower height is technically necessary to successfully engage in commercial telecommunication services.

3. All towers must meet these maximum height restrictions of this section, unless located upon public buildings and utility structures, church sanctuaries, steeples and bell towers.

(9) Tower Lighting. Towers must not be illuminated by artificial means and not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

(10) Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(11) Screening. All towers and structures accessory to the tower must be screened in accordance with Chapter 4-03, Section 1(3) of this ordinance.

(12) Abandoned or Unused Towers or Portions of Towers. All abandoned or unused towers and associated facilities must be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the City Council In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities

may be removed by the City and the costs of removal assessed against the property.

(13) Antennas Mounted on Roofs, Walls, and Existing Towers. The placement of commercial wireless telecommunication antennas on roofs, walls, and existing towers may be approved by resolution of the City Commission, provided the antennas meet the requirements of this ordinance. Requests under this section must be accompanied by a final site plan and building plan and a report prepared by a qualified professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method for affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment must be indicated.

Private wireless telecommunications antennas, such as satellite dishes and other similar antennas, are permitted accessory uses in all residential districts to a maximum height of 15 feet and may not be located in a required front or side yard setback; except for private wireless telecommunications antennas less than 30 inches in diameter which may be located within a required front or side yard setback if mounted upon a residential structure.

(14) Interference with Public Safety Telecommunications. No new or existing telecommunications service may interfere with public safety telecommunications. Before the introduction of new service or changes in frequencies or maximum signal output, telecommunication providers must notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

(15) Towers and Antennas Upon Public Right-of-Way and Public Property. With the exception of the necessary electric and telephone service and connection lines approved by the City, no part of any antenna or tower nor any lines, cable, equipment, or wires or braces in connection with either may at any time extend across or over any part of the public right-of-way, public street, highway, sidewalk, or property line without a lease approved by the City of Harwood.

(16) Additional Submittal Requirements.

(a) In addition to the information required elsewhere in this ordinance, development applications for towers must include the following supplemental information:

1. Descriptions of the tower height and design, including a cross-section and elevation.

2. Documentation of the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas.

3. Descriptions of the tower's capacity, including the number and type of antennas that can be accommodated.

4. Documentation regarding what steps the applicant will take to avoid interference with established public safety telecommunications.

5. Other information necessary to evaluate the request.

(b) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successor to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

(c) Before the issuance of a conditional use permit, the following supplemental information must be submitted:

1. Proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and

2. A report from a qualified professional engineer with demonstrates the tower's compliance with the aforementioned structural and electrical standards.

CHAPTER 4-04

EXTRATERRITORIAL PROVISIONS

SECTIONS:

4-0401. General Purpose.
4-0402. Subdivision Review.
4-0403. Building Permits.
4-0404. Residential Development.
4-0405. Commercial/Industrial Development.
4-0406. Individual and Private Group Sewer and Water Facility Design.
4-0407. Street Design and Access.
4-0408. Street Maintenance.

SECTION 4-0401. **GENERAL PURPOSE.** The City of Harwood shall exercise its authority over extraterritorial subdivisions for the purposes of:

(1) Promoting compact urban development.

(2) Preventing urban sprawl.

(3) Preserving prime agricultural farmland.

(4) Controlling public service costs.

(5) Maintaining open space.

(6) Promoting harmonious development.

SECTION 4-0402. **SUBDIVISION REVIEW.** In addition to the requirements stated herein, comments shall be gained from the Cass County Planning Commission and the applicable township board prior to preliminary review before the Planning Commission.

SECTION 4-0403. **BUILDING PERMITS.** No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the administrative official pursuant to the ordinances of the City of Harwood.

SECTION 4-0404. **RESIDENTIAL DEVELOPMENT.** Where connection to the municipal or a rural central water and sewer system would be anticipated within a ten (10) year period, residential subdivisions shall be encouraged to connect to such system. For those developments connecting to such system, lot and yard requirements

shall be as required for the particular use within the Zoning Ordinance.

Where no municipal and rural central water and sewer system can feasibly exist, the following minimum standards shall apply:

(1) One acre for non-farm single family lots.

(2) 100 foot lot width at building setback line.

(3) Setbacks consistent with pertinent provisions of the Zoning Ordinance.

(4) For every dwelling unit over one per lot, an additional 10,000 square feet of lot area shall be required in addition to the initial one acre lot size.

SECTION 4-0405. **COMMERCIAL/INDUSTRIAL DEVELOPMENT.** Where connection to the municipal or a rural central water and sewer system is not feasible, the following standards shall apply:

(1) Minimum lot sizes shall be five (5) acres for industrial and three (3) acres for commercial development.

(2) Off-street parking as required by the Zoning Ordinance.

(3) Yard and landscape requirements shall be as required within the city limits.

Should municipal or rural central water and sewer connection be available, yard, lot, and design standards shall be as required for the particular use in the Zoning Ordinance.

SECTION 4-0406. **INDIVIDUAL AND PRIVATE GROUP SEWER AND WATER FACILITY DESIGN.**

(1) GENERAL. Where connection to the municipal or a rural central water and sewer system is not feasible, as determined by the City Engineer and Planning Commission, individual or private group sewer and water facilities may be permitted. Such facilities shall conform with all applicable state codes and provisions and shall be approved by the Cass County Engineer and City Engineer prior to Final Plat approval by the City Council.

(2) LOT REQUIREMENTS. Lot requirements shall be as stated within these extraterritorial provisions.

(3) SYSTEM DESIGN. Each facility shall be designed and constructed to City Engineering standards and in accordance with these regulations.

(4) SOIL MAP DATA. For all sewerage systems, soil map data shall be presented and approved by the Cass County Sanitarian and thereupon presented to the Planning Commission indicating that all proposed lots are adequate for individual or private group disposal systems.

SECTION 4-0407. **STREET DESIGN AND ACCESS.** Streets shall normally be designed and constructed in accordance with these regulations and City Engineer standards. For all section line roads, minimum dedicated right-of-way shall be 100 feet. Access upon federal, state, county, and township roads shall be subject to the approval of the State Highway Department, appropriate township board, County Engineer, City Engineer, and Planning Commission.

SECTION 4-0408. **STREET MAINTENANCE.** The applicant shall submit to the Planning Commission a statement indicating who will be responsible for street maintenance and snow removal.

CHAPTER 4-05

SUBDIVISION IMPROVEMENT GUARANTEES

SECTIONS:

4-0501. Completion of Improvements.
4-0502. Improvements Installed by Developer.
4-0503. Creation of Improvement District by City.
4-0504. Combination of Improvement District and Improvements Installed by Developer.

SECTION 4-0501. **COMPLETION OF IMPROVEMENTS.** Upon final approval of any subdivision plat, the subdivider or developer shall petition the City Council for the purpose of installing the required public improvements. The subdivider or developer shall petition the City Council to install public improvements in one of the following three ways:

(1) The subdivider or developer installs all the required public improvements at their own cost.

(2) The City creates an improvement district in order to assess the improvement costs against benefitted properties.

(3) Part of the improvement costs are borne by the subdivider or developer and the City creates an improvement district in order to assess the remaining improvement costs against benefitting properties.

In any event, all improvements shall be installed in accordance with these regulations and the City Engineer's guidelines.

SECTION 4-0502. **IMPROVEMENTS TO BE INSTALLED BY DEVELOPER.** Should the developer or subdivider request to install all required public improvements at their own cost, and the City Council provides approval to this request, the developer shall be required to sign an "Agreement Authorizing Improvements by Developer," as provided by the City's Attorney, and to deposit with the City a cashiers check in the amount as required by the City Council.

SECTION 4-0503. **CREATION OF IMPROVEMENT DISTRICT BY CITY.** Should the developer or subdivider request to have the City create an improvement district in order for the public utilities to be

installed, and the City Council approves this request, the following procedure shall be followed:

(1) Subdivider or developer shall sign an "Agreement to Create Improvement District" as furnished by the City Attorney. This agreement requires the furnishing of a cashiers check, in the amount as required by the City Council.

(2) Subdivider or developer shall sign an "Improvement District Escrow Agreement," as furnished by the City Attorney.

SECTION 4-0504. **COMBINATION OF IMPROVEMENT DISTRICT AND IMPROVEMENTS TO BE INSTALLED BY DEVELOPER.** Should the developer or subdivider request to have the City create an improvement district for the installation of part of the improvements and also request to install the remaining improvements, and the City Council approves these requests, the following procedure shall be followed:

(1) Subdivider or developer shall sign an "Agreement Authorizing Improvement by Developer," as provided by the City Attorney, and to deposit with the City a cashiers check in the amount as required by the City Council.

(2) Subdivider or developer shall sign an "Agreement to Create Improvement District" and an "Improvement District Escrow Agreement," as furnished by the City Attorney.

CHAPTER 4-06

GENERAL ADMINISTRATIVE PROVISIONS

SECTIONS:

4-0601. Purpose.
4-0602. Short Title.
4-0603. Jurisdiction.
4-0604. Severability.
4-0605. Provisions of Ordinance Declared to be Minimum Requirements.
4-0606. Repeal of Conflicting Ordinances.

SECTION 4-0601. **PURPOSE.** The purpose of this Ordinance is to conserve and stabilize the value of property; to provide adequate open space for light and air; to secure safety from fire, panic and other dangers; to prevent undue concentration of population; to lessen congestion on streets, roads and highways; to facilitate adequate provisions for utilities and facilities such as transportation, water, sewerage, schools, parks and other public requirements; and to promote health, safety, morals, and general welfare.

SECTION 4-0602. **SHORT TITLE.** This Ordinance shall be known and may be cited and referred to as "The Zoning Ordinance of the City of Harwood, North Dakota," to the same effect as if the full title were stated.

SECTION 4-0603. **JURISDICTION.** The provisions of this Ordinance shall apply within the corporate limits and the extraterritorial zoning jurisdiction of the City of Harwood, North Dakota, as now and hereafter fixed and as established on the map entitled, "The Official Zoning Map of the City of Harwood, North Dakota," as the same may be amended.

SECTION 4-0604. **SEVERABILITY.** If any section, provision or portion of this Ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION 4-0605. **PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS.** In this interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules,

regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

SECTION 4-0606. **REPEAL OF CONFLICTING ORDINANCES.** All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

CHAPTER 4-07

ADMINISTRATION AND ENFORCEMENT

Sections:

4-0701. Administration and Enforcement.
4-0702. Amendments to the Ordinance.
4-0703. Fees.

SECTION 4-0701. **ADMINISTRATION AND ENFORCEMENT.** The administration and enforcement of this ordinance is hereby vested in the Administration Official and the Zoning Board of Adjustment of Harwood, North Dakota.

(1) Administrative Official:

(a) Authority and Duties:

1. Issue all building permits and certificates of compliance; issues conditional use permits upon approval of Zoning Board of Adjustment;

2. Conduct inspections of buildings for compliance with zoning ordinances and other applicable codes or ordinances;

3. Maintain records of the regulations and permits;

4. Report the following to the Zoning Board of Adjustment:

a) All complaints stemming from this zoning ordinance;

b) Zoning violations;

c) Applications for conditional use permits; and

d) Applications for variances.

5. Shall investigate violations, violation complaints, and report them to the City Attorney for appropriate action.

(2) Zoning Board of Adjustment: Zoning Board of Adjustment shall consist of five members appointed from the City Council and the Planning and Zoning Commission.

(a) Authorities and Duties:

1. Authorize conditional use permits;

a) Procedure for application and issuance of a conditional use permit shall be as follows:

1) An application for a conditional use permit shall be submitted to the Administrative Official.

2) The Administrative Official shall report the application to the Zoning Board of Adjustment.

3) Every application for a conditional user permit shall include a plot plan showing:

a. Legal description of the land to be used;

b. Location of all structure and all existing and proposed improvements , including curb-cut access, off-street parking, and other such facilities;

c. Building setbacks from all property lines;

d. Location and type of planting, screening or walls;

e. A timing schedule indicating the start and completion dates of the development;

f. Names and addresses of adjacent property owners;

g. Any additional information that the Zoning Board of Adjustment deems necessary.

4) Within fifteen (15) days of the filing of the application for a conditional use permit, the Zoning Board of Adjustment shall notify in writing adjacent property owners of the proposed conditional use and/or shall consider their comments and shall set a public hearing.

5) If a hearing is requested, it shall be held within sixty (60) days of the filing date of the application.

6) The Administrative Official shall prepare a written statement for the Zoning Board of Adjustment specifying the manner in which the proposed conditional use complies with the provisions governing conditional uses. No application for a conditional use permit shall be granted unless the Zoning Board of Adjustment shall find all of the following conditions present:

a. The conditional use shall not be detrimental to or endanger public health, safety, or general welfare; shall be in harmony with the general purpose of these regulations and shall be appropriate according to number, location, and relationship to surrounding uses;

b. The conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area;

c. The conditional use shall not impede the normal and orderly

development of the surrounding property.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided.

e. Adequate measures shall be taken to provide entrance to and exit from the property without adverse effects on neighboring properties and traffic congestion in public streets.

f. The conditional use shall conform to all applicable regulations of the district in which it is located.

7) Within fifteen (15) days of the Board of Adjustment's decision, they shall notify the applicant in writing citing the reasons for approval or disapproval.

2. Hear and decide variances from the terms of this ordinance that will not be contrary to the public interest, where the literal enforcement of this ordinance will result in practical difficulty or unnecessary hardship to the property owner. The procedure for application and review shall be as follows:

a) An application for a variance shall be submitted to the Administrative Official.

b) The Administrative Official shall report the application to the Zoning Board of Adjustment.

c) Every application for a variance shall include the following:

1) Legal description of the property;

2) The reason for the variance request, including a description of the property that prevents its reasonable use under the terms of this ordinance;

3) The type of variance requested, along with the desired specifications of same;

4) An explanation of whether the hardship is unique to the applicant's property or of a general nature characteristic of other properties;

5) Names and addresses of adjacent property owners;

6) Any other information that the Zoning Board of Adjustment deems necessary.

d) Within fifteen (15) days of the filing of the application, the Board shall notify the adjacent property owners in writing and may hold a public hearing.

e) The Board shall base its findings on evidence presented to it and the following conditions before it may approve a request for a variance:

1) The particular surroundings or the topographic conditions of the property would result in undue hardship.

2) The variance request is not based on a desire for economic or other gains.

3) The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.

4) The variance shall not be detrimental to the public welfare or injurious to other properties in the area.

5) The variance shall not be contrary to the interest and purpose of this ordinance.

f) Within thirty (30) days of the filing of the application for variance, the Zoning Board of Adjustment shall notify the applicant in writing citing the reasons for approval or disapproval.

3. Hear appeals of any person, firm or organization aggrieved by a decision or ruling of the Administrative Official. The Board of shall transmit to the City Council all records on which its decisions are based.

a) <u>Procedures for Appeals</u>:

1) An aggrieved person shall file a petition for a hearing to the zoning Board of Adjustment within thirty (30) days of a decision by the Administrative Official.

2) At the same time, the appeal shall be presented in writing to the Zoning Board of Adjustment and shall specify the grounds for the appeal.

3) The hearing shall be held within a reasonable time after the filing of the petition.

4) Within fifteen (15) days after the hearing, the Zoning Board of Adjustment shall take action and send its decision, by registered mail, to the aggrieved person.

4. Publish notice of all hearings once a week for two successive weeks prior to the date established for the hearing in the official newspaper of the City.

5. Interpret district boundaries on the zoning map.

4-0702. **AMENDMENTS TO THE ORDINANCE.** The City Council may from time to time on its own motion or on petition or recommendations by the Planning and Zoning Commission amend, supplement, or repeal provisions of this ordinance.

(1) Procedures for Amendment:

(a) Applications for amendments shall be filed with the Administrative Official.

(b) The Administrative Official shall notify the Planning and Zoning Commission of the proposed amendment.

(c) If the zoning map is proposed to be changed, the Planning and Zoning Commission shall notify, by registered mail, all property owners fronting on or within 150 feet of the property in question at least 15 days prior to the public hearing.

(d) The application shall be presented to the public at an official public hearing conducted by the Planning and Zoning Commission. Notice of the hearing shall be published in the official City newspaper once a week for two successive weeks prior to the date established for the hearing. A notice may also be placed in a conspicuous location in the post office.

(e) Following the hearing, the Planning and Zoning Commission shall submit its recommendations concerning the proposed amendment to the City Council.

(f) The City Council shall hold a public hearing on the proposed amendment within thirty (30) days of receipt of recommendations from the Planning and Zoning Commission. Notice of the hearing shall be published in the official City newspaper once a week for two successive weeks prior to the date established for the hearing.

(g) Following the hearing, the City Council shall approve or disapprove the proposed amendment.

(2) Protests to Amendments:

(a) If a protest against an amendment is signed by the owners of 20 percent or more:

1. Of the area of the lots included in such proposed change; or

2. Of the area adjacent, extending 150 feet (excluding streets) from the property to be changed, the amendment shall not become effective except by a favorable vote of at least three-fourths (3/4) of the members of the City Council.

4-0703. **FEES.** For the purpose of administering this ordinance, fees may be established by the City Council.

CHAPTER 4-08

VIOLATIONS, REMEDIES, COMPLAINTS AND PENALTIES.

Sections:

4-0801. Public Nuisance Per Se.
4-0802. Complaints Regarding Violations.
4-0803. Enforcement.
4-0804. Penalties for Violation.
4-0805. Responsible Party.

4-0801. **PUBLIC NUISANCE PER SE.** Any building or structure, or any use of premises or land which is in violation of any of the provisions of the zoning ordinances of the City of Harwood, and is not a nonconforming structure or use, is hereby declared to be a public nuisance per se.

4-0802. **COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrative official. S/he shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

4-0803. **ENFORCEMENT.** If the administrative official shall find that any of the provisions of this Ordinance are being violated, s/he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. S/he may order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or any other action deemed relevant by the administrative official. The notice shall provide a minimum of a thirty(30) day period in which to comply with the notice. The notice shall also state that the person or entity may appeal the order of the administrative official to the Harwood Board of Adjustment by filing a written appeal within thirty (30) days of the receipt of the notice with the City Auditor, or the administrative official who executed the original notice. If the person or entity served with the original notice does not appeal within the thirty (30) day period nor comply with the order of the administrative official within the time set our in the notice, the administrative official should refer the matter to the City Attorney. The City Attorney may commence criminal proceedings in

the Municipal Court and/or commence civil proceedings to enjoin or abate the violation.

4-0804. **PENALTIES FOR VIOLATION.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

4-0805. **RESPONSIBLE PARTY.** The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

CHAPTER 4-09

OUTDOOR ADVERTISING

SECTIONS:

4-0901. Definitions.
4-0902. Permit Required.
4-0903. Prohibition.
4-0904. Exemptions.
4-0905. Bond Required.
4-0906. Annual License Fee.
4-0907. Identification of Manufacturer, Fabricator, or Erector.
4-0908. Violations.

4-0901. **DEFINITIONS.**

1. "Erect" shall mean to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

2. "Maintain" shall mean to exist.

3. "Outdoor Advertising" shall mean a sign, display, or device of any kind or character, including statuary, erected or maintained, for outdoor advertising purposes, upon which any poster, bill, printing, painting, or other advertisement of any kind whatsoever may be placed for advertising purposes and shall include but not be limited to any card, cloth, paper, metal, painted, or wooden sign of any character placed for outdoor advertising purposes, on or affixed to the ground or any tree, wall, bush, rock, fence, building, structure, or thing, either privately or publicly owned. The terms "sign, display, or device" comprehend all forms of outdoor advertising, and the use of one such term in this chapter includes all forms of outdoor advertising.

4-0902. **PERMIT REQUIRED.**

1. No person, firm or corporation shall erect, maintain or display any form of outdoor advertising within the City limits of the City of Harwood or within the boundaries of its extraterritorial jurisdiction without having first obtained an outdoor advertising permit from the City Council.

2. Application for an outdoor advertising permit shall be made in writing and shall state or show in detail the nature of the proposed outdoor advertising and the materials to be used in erecting and displaying the advertising.

3. Each application for an outdoor advertising permit shall be accompanied by a fee in such amount as may be adopted by resolution of the City Council.

4. Upon receipt of an application for an outdoor advertising permit, the City Council may consider such application at a special meeting or at its next regular meeting. Additional information concerning the proposed outdoor advertising shall be supplied to the City Council upon request.

5. The City Council may issue an outdoor advertising permit if it determines that the proposed outdoor advertising will not be injurious to the pubic health, safety, morals, comfort, convenience, and general welfare. In making such determination, the City Council shall consider the following factors:

   a. The zoning classification of the proposed site;

   b. The City's plans for orderly growth and development in the proposed area;

   c. The size, nature and materials to be used in the outdoor advertising;

   d. Whether the character of the neighborhood in which the proposed site is located would be maintained despite the outdoor advertising;

   e. Public safety and traffic matters;

   f. The effect on property values in the area surrounding the proposed site;

   g. The need for additional outdoor advertising within the City;

   h. Any other matters it deems relevant.

   In addition, the City Council may impose such restrictions or conditions upon the outdoor advertising or the materials used in erecting or displaying the outdoor advertising as it deems necessary and proper.

6. The City Council shall make its reasons for the issuance, denial or conditional issuance of an outdoor advertising permit part of the official record of its proceedings.

7. Any permit issued hereunder shall expire within 60 days from the date of issuance unless the outdoor advertising authorized therein shall have commenced within that period of time.

8. In addition to the permit required herein, a building permit shall also be obtained for the construction, reconstruction, structural alteration or erection of any outdoor advertising.

4-0903. **PROHIBITION.** Notwithstanding the above, no outdoor advertising shall be erected or maintained in any R-1, R-2, R-3 and R-4 zoning districts or within 500 feet of any such zoning district boundary line.

4-0904. **EXEMPTIONS.** The following forms of outdoor advertising shall be exempt from the provisions of this chapter:

1. Official signs and notices and directional signs and notices that do not advertise goods or services.

2. Signs advertising the sale or lease of property upon which they are located.

3. Signs specifically advertising activities conducted, services rendered, goods sold, stored, produced, or the name of the enterprise on the property upon which they are located; provided, however, that this exemption shall apply only to signs not exceeding 15 square feet in surface area.

4. Signs calling attention to the location of buried utility lines;

5. Official highway signs within interstate rights-of-way giving specific information for the traveling public; and

6. Signs specifically authorized by other sections of these ordinances.

4-0905. **BOND REQUIRED.** In addition to the permits required hereunder, every person, firm or corporation engaging in the erection or maintenance of any outdoor advertising shall give a bond in the sum of $3,000, with good and sufficient sureties, to be approved by the City Auditor and City Attorney of the City of Harwood, conditioned, among other things, that said party will

indemnify and hold harmless the City of Harwood, and any person, for a period of two years after the erection of any outdoor advertising, from any and all charges, costs, expenses, judgments, or damages caused by reason of any negligence on the part of said party or any servant or employee of said party, or by the use of any insufficient or insecure support attachments, or by improper, unsuitable, or unskilled workmanship in the erection or maintenance of any outdoor advertising.

4-0906. **ANNUAL LICENSE FEE.** In addition to the permits and bond required hereunder, every person, firm or corporation engaging in the erection or maintenance of any outdoor advertising shall pay an annual license fee in such amount as may be established by resolution of the City Council from time to time.

4-0907. **IDENTIFICATION OF MANUFACTURER, FABRICATOR, OR ERECTOR.** Every piece of outdoor advertising erected or maintained in the City of Harwood shall be clearly marked by some permanent means and in a location on said outdoor advertising which is readily visible. Said marking shall state the name and address of the manufacturer, fabricator and installer or erector of such sign.

4-0908. **VIOLATIONS.**

1. In the case of any violation of this ordinance, the building inspector shall issue any appropriate order to prevent the unlawful erection or maintenance of any outdoor advertising or to restrain, correct or abate any existing outdoor advertising in violation of this ordinance. In the event the offending party does not comply with the building inspector's order within seven days, each day thereafter that the violation is allowed to continue shall constitute a new and separate violation punishable hereunder.

2. Every person, firm or corporation violating this ordinance shall, upon conviction thereof, be punished by a fine not to exceed $500, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court. The court shall have power to suspend said sentence and to revoke the suspension thereof.

3. The owner, lessor, lessee or tenant of any land, building or structure on which any outdoor advertising is erected or maintained and any builder, contractor, agent or other person who commits, participates in, assists in or maintains any violations of this ordinance may be found guilty of a separate offense and suffer the same penalties as provided herein.

TITLE V.

BUILDINGS

CHAPTERS:

5-01. Building Code.
5-02. Dangerous Buildings.
5-03. Moving Buildings.
5-04. Flood Damage Prevention.
5-05. Minimum Housing Standards.

CHAPTER 5-01

BUILDING CODE

SECTIONS:

5-0101. Adoption of State Building Code.
5-0102. Modifications of State Building Code.
5-0103. Penalty.
5-0104. Fee for Copy of Relevant Code Provisions.

5-0101. **ADOPTION OF STATE BUILDING CODE.** The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City of Harwood, North Dakota, shall meet with the provisions of the rules and regulations of the State Building Code, a copy of which is on file in the office of the building inspector for the City of Harwood, with the exception of the sections hereinafter set forth affecting local conditions in the City of Harwood, which sections shall be substituted for and in lieu of like sections or paragraphs in said State Code; and the City Council of said City of Harwood, by this section hereby approves and adopts such rules and regulations, as so modified, for use and application in the City of Harwood, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the State Building Code may be adopted by the City by resolution.

5-0102. **MODIFICATIONS OF STATE BUILDING CODE.** The provisions of the State Building Code, which encompass the Uniform Building Code (as proscribed by Section 54-21.3-03 of the North Dakota Century Code), in order to conform to local needs, is hereby changed and amended as follows:

1. Section 107 - Fees is hereby amended to read as follows:

> 107.2 Permit Fees. The fee for each permit shall be based on the permit fee schedule as adopted by resolution of the City Council for the City of Harwood.
>
> 107.3 Plan Review Fees. When submittal documents are required by Section 106.3.2, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be 65% of the building permit fee as indicated in Section 107.2.

The plan review fees specified in this subsection are separate from the permit fees specified in Section 107.2 and are in addition to the permit fees.

When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section 106.3.4.2, an additional plan review fee shall be charged in an amount equal to 50%, if required, of the building permit fee at the rate indicated in Section 107.2.

2. Whenever a reference is made in said building code regarding the frost line, said frost line shall be determined to be four (4) feet. Four (4) feet should, therefore, be the minimum depth below finish grade to the bottom of footings, excluding detached residential garages.

3. Section 105.1 is hereby changed and amended as follows:

Appeals. A person may appeal an order, decision or determination made by the building official relative to the application and interpretation of this code to the Harwood City Council. The appeal must be filed in writing with the City Auditor of the City of Harwood within thirty (30) days from the date of the decision, order or determination of the building official.

5-0103. **PENALTY.** Any person violating any provision of the State Building Code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

5-0104. **FEE FOR COPY OF RELEVANT CODE PROVISIONS.** Every licensed contractor, pursuant to Chapter 43-07 of the North Dakota Century Code, upon applying for a building permit, shall be provided a copy of the Building Code Ordinances of the City of Harwood and the relevant portions of the State Building Code adopted by the City which apply to residential construction, or commercial construction, depending on the type of permit sought. The contractor will be charged a fee for such copies in an amount set by the City Council. A contractor will only be provided one copy of the relevant Building Code sections and pay one fee for residential construction and one fee for commercial construction, no matter how many building permits are requested by that

particular contractor. Provided, however, that if the City later adopts another Building Code, the contractor will again be required to pay another fee to get the revised Building Code provisions. Notwithstanding the above provisions, if a contractor shows the Building Official his/her copy of the appropriate Building Code, then the contractor shall just be supplied a copy of the Harwood Building Code Ordinances and shall not be required to be provided nor pay the charge for obtaining a copy of the relevant Building Code.

CHAPTER 5-02

DANGEROUS BUILDINGS

SECTIONS:

5-0201. Definitions
5-0202. Standards for Repair, Vacation, or Demolition.
5-0203. Dangerous Buildings - Nuisances.
5-0204. Duties of Building Administrator.
5-0205. Duties of City Council.
5-0206. Owner Absent from the City.
5-0207. Appeal.
5-0208. Penalty.

5-0201. **DEFINITIONS.** All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

(a) Those whose interior walls or other vertical structural members lean, list or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(b) Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.

(c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(d) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.

(e) Those which have become, or are, so dilapidated, decayed, unsafe or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause or aggravate sickness or disease, so as to work injury to

the health, morals, safety, or general welfare of those living therein.

(f) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

(g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(i) Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this city.

(j) Those buildings existing in violation of any provision of the Building Code, zoning ordinances, any provision of the Fire Prevention Code or other ordinances of this city.

5-0202. **STANDARDS FOR REPAIR, VACATION, OR DEMOLITION.** The following standards shall be followed in substance by the Board of City Council in ordering repair, vacation, or demolition:

(a) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.

(b) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.

(c) In any case where a "dangerous building" is fifty percent damaged, decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer be in violation of the terms of this chapter, it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of this city or statute of the state of North Dakota, it shall be demolished.

5-0203. **DANGEROUS BUILDINGS - NUISANCES.** All "dangerous buildings" within the terms or Section 5-0201 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

5-0204. **DUTIES OF BUILDING ADMINISTRATOR.** The building administrator shall:

(a) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this chapter.

(b) Inspect any building, wall, or structure reported (as hereinafter provided for) by any agent of the City as probably existing in violation of the terms of this chapter.

(c) Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building, as shown by the records in the office of the register of deeds of the county of Cass, of any building found by the building administrator to be a "dangerous building" within the standards set forth in Section 5-0201 of this chapter, that: (1) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this chapter; (2) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

(d) Set forth in the notice provided for in subsection (c) hereof a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building," and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty days, as is reasonable.

(e) Report to the City Council any noncompliance with the "notice" provided for in subsections (c) and (d) hereof.

(f) Appear at all hearings conducted by the City Council and testify as to the condition of "dangerous buildings."

(g) Place a notice on all "dangerous buildings" reading as follows: "This building has been found to be a 'dangerous building' by the building administrator. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with."

5-0205. **DUTIES OF CITY COUNCIL.** The City Council shall:

(a) Upon receipt of a report of the building administrator as provided for in Section 5-0204, subsection (e), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building administrator's notice provided for herein in Section 5-0204, subsection (d).

(b) Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building".

(c) Make written findings of fact from the testimony offered pursuant to subsection (b) as to whether or not the building in question is a "dangerous building" within the terms of Section 5-0201.

(d) Issue an order based upon findings of fact made pursuant to subsection (c) hereof commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the register of deeds of the County of Cass to repair, vacate, or demolish any building found to be a "dangerous building" within the terms of this chapter and provided that any person so notified, except the owners, shall

have the privilege of either vacating or repairing said "dangerous building".

(e) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (d) hereof, within thirty days, the City Council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards, hereinbefore provided for in Section 5-0202 of this chapter. The cost to the City of Harwood of demolishing, repairing or removing any building or structure under this chapter shall be determined by the City Council after written notice to the property owner of a hearing thereon; and shall then be certified to the County Auditor as a special assessment levied upon the described property and to be spread upon the taxes against said property.

(f) Report to the city attorney the names of all persons not complying with the order provided for in subsection (d) of this section.

5-0206. **OWNER ABSENT FROM THE CITY.** All notices or orders provided for herein shall be sent by registered mail to such owner, occupant, lessee or mortgagee, and all other persons having an interest in said building, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

5-0207. **APPEAL.** The owner and the occupant shall have thirty (30) days from the date of the order provided for in Section 5-0205 hereof in which to appeal to the Courts from the action of the City Council. The City Council shall not demolish, repair, or remove the building or structure or cause the same to be done during the period of time herein provided for appeal.

5-0208. **PENALTY.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

CHAPTER 5-03

MOVING BUILDINGS

SECTIONS:

5-0301. Permit Required.
5-0302. Permit Application.
5-0303. Information Contained for Permit Application.
5-0304. Building Permit Required.
5-0305. House-Mover's License - Requirements.
5-0306. Removal of Overhead Wires and Cables - Notice.
5-0307. Removal of Attached Wires, Cables and Pipes.
5-0308. Building in Street - Warning Light Required.
5-0309. Equipment in Street - Lights Required.

5-0301. **PERMIT REQUIRED.** No person shall move, remove, raise or support free of its foundation, any building or structure within the limits of the City of Harwood, or cause or hire said work to be done, or assist in said work, unless a permit for said work has been obtained from the City of Harwood in accordance with the provisions of this chapter.

5-0302. **PERMIT APPLICATION.** No permit to move, remove, raise or support free of its foundation, any building or structure within the limits of the City of Harwood shall be issued until written application for permit has been filed with the City Engineer on forms provided by the City of Harwood, and the application for permit has been approved by the City Auditor. The City Auditor in granting a moving permit may condition the permit upon the applicant meeting certain conditions such as having a licensed mover move the building, time limits in which the building must be moved, routes that must be followed, posting a bond, and any other similar conditions as deemed advisable by the City Auditor. Any person denied a moving permit or contesting any conditions placed on the permit, may appeal to the City Council, who shall review the permit and its conditions at its next regularly scheduled meeting.

5-0303. **INFORMATION CONTAINED FOR PERMIT APPLICATION.** Written application for permit to move, remove, raise or support free of its foundation any building or structure within the limits of the City of Harwood shall contain the following information concerning the building or structure to be moved, removed, raised or supported:

1. Date of application.
2. Name and address of applicant for permit.
3. Name and address of owner of building.

4. Name and address of person, firm or corporation the applicant for permit will employ to do the moving.
5. Size of building or structure.
6. Age and general description of building or structure.
7. Location of building or structure at time of making application.
8. Proposed new location for building or structure.
9. Route or road along which it is proposed to move the building or structure from present location to proposed new location.
10. Condition of building or structure at time application is made for permit.
11. How long the moving of building or structure is expected to take and when moving is expected to be completed if permit is granted.
12. What changes in condition of building or structure will be made after building or structure is moved to proposed new location, and when these changes will be completed.

5-0304. **BUILDING PERMIT REQUIRED.** No moving permit shall be granted to a structure being moved into the city limits of the City of Harwood unless and until the applicant also receives a building permit from the Building Administrator.

5-0305. **HOUSE-MOVER'S LICENSE - REQUIREMENTS.** The City Auditor may require as a condition to the approval of application for permit and issuance of permit under this chapter that the moving be done only by one holding a license for the moving of buildings and structures within the City of Harwood. No such license shall be granted until the person applying therefor shall have paid to the City Auditor a license fee of Five Dollars ($5.00), and shall have given a surety bond payable to the City in the sum of Five Thousand Dollars ($5,000), on a form satisfactory to the City Auditor, and conditioned, among other things, that said party will pay any and all damages which may be caused to any property, either public or private, within the City, whether said damages or injury be inflicted by said party, his employees, agents or workmen; and conditioned also that said party will save and indemnify and keep harmless the said City against all liabilities, judgments, costs and expenses which may in any way accrue against the City in consequence of the granting of such license, and will in all things strictly comply with the provisions of this chapter and with the conditions of any and all permits which may be issued hereunder to said house-mover or one employing him.

Upon the execution of such bond, and its acceptance by the City Auditor, the "house-mover's" license for the moving of buildings and structures within the City of Harwood shall be issued. All such licenses shall expire one (1) year from date of issue.

5-0306. **REMOVAL OF OVERHEAD WIRES AND CABLES - NOTICE.**

1. In every case in which a permit shall be issued as herein provided for the removal of any house or structure, when such removal requires the displacement of any overhead electrical or other wire or cable, it shall be the duty of the person, association or corporation owning, operating or controlling such wire or cable to remove or displace the same as far as may be necessary to permit the removal of such house, building or structure.

2. The person to whom a removal permit shall have been issued shall notify the person, association or corporation owning, operating or controlling such wire or cable, to remove or displace the same to facilitate the removal of said house, building or structure and shall exhibit to said person, association or corporation the properly issued permit authorizing the removal of said house, building or structure, and it shall thereupon be the duty of said person, association or corporation, within a reasonable time, not exceeding twenty-four (24) hours thereafter to remove or displace such wires or cables sufficiently to allow the passage of said house, building or structure.

5-0307. **REMOVAL OF ATTACHED WIRES, CABLES AND PIPES.** The person to whom a removal permit has been issued shall, before raising, moving or removing any building or structure to which electric wires are attached, notify the persons, associations or corporations owning or controlling such electric wiring, cables or piping of the proposed moving of said building or structure. The person, association or corporation so notified shall within a reasonable time, not exceeding twenty-four (24) hours, thereafter, disconnect and make safe all such electric wiring, cables or piping.

5-0308. **BUILDING IN STREET - WARNING LIGHT REQUIRED.** When any building or structure is being moved across or through any street or alley, a warning light must be in operation at each corner of such building or structure, from sunset to sunrise.

5-0309. **EQUIPMENT IN STREET - LIGHTS REQUIRED.** All ropes, blocks, winches, windlasses, or other equipment used in the moving of said building or structure must, when obstructing the free use of a street or alley, be protected by suitable warning lights from sunset to sunrise.

CHAPTER 5-04

FLOOD DAMAGE PREVENTION

SECTIONS:

5-0401. Statutory Authorization.
5-0402. Findings of Fact.
5-0403. Statement of Purpose.
5-0404. Methods of Reducing Flood Losses.
5-0405. Adoption of Flood Proofing Code.
5-0406. Definitions.
5-0407. Land to Which This Ordinance Applies.
5-0408. Basis for Establishing the Areas of Special Flood Hazard.
5-0409. Compliance.
5-0410. Abrogation and Greater Restrictions.
5-0411. Interpretation.
5-0412. Warning and Disclaimer of Liability.
5-0413. Establishment of Development Permit.
5-0414. Designation of the Building Administrator.
5-0415. Duties and Responsibilities of the Building Administrator.
5-0416. Variance Procedure.
5-0417. Provisions for Flood Hazard Reduction -- General Standards.
5-0418. Provisions for Flood Hazard Reduction -- Specific Standards.
5-0419. Floodways.
5-0420. Validity.
5-0421. Penalty.

5-0401. **STATUTORY AUTHORIZATION.** The Legislature of the State of North Dakota has in Chapters 40-47, 11-33 and 58-03 of the North Dakota Century Code delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Harwood, North Dakota does ordain as follows:

5-0402. **FINDINGS OF FACT.**

1. The flood hazard areas of Harwood are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety and general welfare.

2. Flood losses caused by the cumulative effect of obstructions in the special flood hazard areas cause increases in flood heights and velocities. Inadequately floodproofed, elevated or otherwise unprotected structures also contribute to the flood loss.

5-0403. **STATEMENT OF PURPOSE.** It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;

2. To minimize expenditure of public money for costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

6. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

7. To insure that potential buyers are notified that property is in an area of special flood hazard; and

8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

5-0404. **METHODS OF REDUCING FLOOD LOSSES.** In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling filling, grading, dredging, and other development which may increase flood damage;

4. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters; and

5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

5-0405. **ADOPTION OF FLOOD PROOFING CODE.** There is hereby adopted by the City Council of the City of Harwood for the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the "Floodway and the Special Flood Hazard Area" and certain equipment specifically regulated herein, including permits and penalties, that certain code known as the Flood Proofing Code prepared by Moore Engineering, Inc., of West Fargo, North Dakota, in June 1981, of which not less than three (3) copies have been and now are filed in the office of the City Auditor of the City of Harwood, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this title shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the jurisdiction of the City of Harwood.

5-0406. **DEFINITIONS.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. "Appeal" means a request for a review of the Building Administrator's interpretation of any provisions of this ordinance or a request for a variance.

2. "Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

3. "Base flood" or "100-year flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

4. "Base Flood Elevation" (BFE) means the height of the base flood or 100-year flood usually in feet above mean sea level.

5. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

6. "Best Available Data" (BAD) means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).

7. "Conveyance or hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.

8. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

9. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

   a. The overflow of inland waters and/or

   b. The unusual and rapid accumulation or runoff of surface waters from any source.

10. "Flood Insurance Rate Map" (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

11. "Flood Insurance Study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

12. "Floodproofing" (Dry) means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.

13. "Floodproofing" means any combination of structural and non-structural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

14. "Floodproofing Code" means the Flood Proofing Code of the City of Harwood, North Dakota, hereinbefore referred to and adopted in Section 5-0405.

15. "Floodway" or "regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

16. "Lowest floor" means lowest floor of a structure including the basement.

17. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle," but does include "mobile home."

18. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

19. "New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

20. "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

21. "Recreational vehicle" means a vehicle which is:

    a. built on a single chassis;

    b. 400 square feet or less when measured at the largest horizontal projection;

    c. designed to be self-propelled or permanently towable by a light duty truck;

    d. designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to:

    e. travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

22. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair,

reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

23. "Structure" means a walled and roofed building or manufactured home that is principally above ground.

24. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

25. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

    a. Before the improvement or repair is started, or

    b. If the structure has been damaged and is being restored before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

    The term does not, however, include either:

    a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

26. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

5-0407. **LANDS TO WHICH THIS ORDINANCE APPLIES.** This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Harwood.

5-0408. **BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.** The areas of special flood hazard identified by the Federal Emergency Management Agency in scientific and engineering report entitled "The Flood Insurance Study for the City of Harwood" dated April 3, 1989, and any subsequent amendments to that map, with an accompanying "Flood Insurance Rate Map" is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the City Hall in Harwood.

5-0409. **COMPLIANCE.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

5-0410. **ABROGATION AND GREATER RESTRICTIONS.** This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deeded restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5-0411. **INTERPRETATION.** In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

5-0412. **WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance

shall not create liability on the part of the City of Harwood, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

5-0413. **ESTABLISHMENT OF DEVELOPMENT PERMIT.** A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 5-0408. Application for a development permit shall be made on forms furnished by the City Council of Harwood and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimension, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. All elevation readings must be certified by a registered professional surveyor, engineer or architect, and compliance with flood proofing regulations, must be certified to by a registered professional engineer or architect. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.

2. Elevation in relation to mean sea level to which any structure has been floodproofed.

3. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4. Description of structures (temporary or permanent), in compliance with the "Flood Proofing Code of the City of Harwood" which is made a part of the ordinance by reference.

5. A statement as to whether or not, if the permit application is for a new structure or the substantial improvement of an existing structure, such structure contains a basement.

6. If the application for a permit relates to a manufactured home park or a manufactured home subdivision, a copy of the excavation plan indicating alternative vehicular access and escape routes for said manufactured home park or manufactured home subdivision, shall be attached to said application as well as a statement by the applicant that such plan has been filed with the Disaster Emergency Services Office of Cass County, North Dakota.

5-0414. **DESIGNATION OF THE BUILDING ADMINISTRATOR.** The Building Administrator is hereby appointed to administer and

implement this ordinance by granting or denying development permit applications in accordance with its provisions.

5-0415. **DUTIES AND RESPONSIBILITIES OF THE BUILDING ADMINISTRATOR.** Duties of the Building Administrator shall include, but not be limited to:

A. Permit Review

1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5-0419(1) are met.

B. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 5-0408, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Building Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer Sections 5-0418(A) SPECIFIC STANDARDS, Residential Construction, and 5-0418(B) SPECIFIC STANDARDS, Nonresidential Construction.

C. Information to be Obtained and Maintained

Information to be obtained and maintained with all elevation readings certified by registered professional surveyor, engineer or architect, and all compliance with Flood proofing regulations to be certified by a registered professional engineer or architect.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.

2. For all new or substantially improved floodproofed structures:

a. Verify and record the actual elevation (in relation to mean sea level), and

b. Verify that all structures (temporary or permanent) shall be constructed in accordance with the "Flood Proofing Code of the City of Harwood" which is made a part of this ordinance by reference.

3. Maintain for public inspection all. records pertaining to the provision of this ordinance.

D. Alteration of Watercourses

1. Notify adjacent communities and the North Dakota State Engineer prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5-0416. **VARIANCE PROCEDURE.**

A. Appeal Board

1. The City Council as established by the City of Harwood shall hear and decide appeals and requests for variances from the requirements of this ordinance.

2. The Council shall hear and decide appeals when it is alleged there is an error in any requirements, decision, or determination made by the Building Administrator or City Engineer in the enforcement or administration of this ordinance.

1. Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision to the appropriate court, as provided in North Dakota law.

2. In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and flood plain management program;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items a k of Section 5-0416(A)(4) have been fully considered. As the lot size increases beyond the one half acre, the technical justification required for issuing the variance increases.

6. Upon consideration of the factors of Section 5-0416(A)(4) and the purposes of this

ordinance, the City Council may attach conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

7. The Building Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

B. Conditions for Variances

1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances shall only be issued upon:

   a. A showing of good and sufficient cause;

   b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

   c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 5-0416(A)(4), or conflict with existing local laws or ordinances.

5. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5-0417. **PROVISIONS FOR FLOOD HAZARD REDUCTION -- GENERAL STANDARDS.** In all areas of special flood hazards the following standards are required:

A. Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

2. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;

b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;

c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

d. Any additions to the manufactured home be similarly anchored.

B. Construction Materials and Methods

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage;

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

5-0418. **PROVISIONS FOR FLOOD HAZARD REDUCTION--SPECIFIC STANDARDS.** In all areas of special flood hazards where base flood elevation data has been provided as set in Section 5-0408 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 5-0415(B), Use of Other Base Flood Data, the following provisions are required:

A. Residential Construction

1. New construction and substantial improvement of any residential structure shall be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water according to the Flood Proofing Code of Harwood.

B. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. If basements or other structures are built below the base flood level they shall comply with the Flood Proofing Code of the City of Harwood, North Dakota, as outlined in the definition section of this code and made a part of this code.

C. Manufactured Homes

1. Manufactured homes shall be anchored in accordance with Section 5-0417(A).

2. All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system.

D. All elevation readings required by this section shall be certified by a registered professional surveyor, engineer or architect, and all compliance with Flood proofing regulations must be certified to by a registered professional engineer or architect.

5-0419. **FLOODWAYS.** Located within areas of special flood hazard established in Section 5-0408 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachment, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If Section 5-0419(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 5-0417, 5-0418 and 5-0419.

5-0420. **VALIDITY.** If any section, clause, paragraph, provision, or portion of these regulations shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision, or portion of these regulations.

5-0421. **PENALTY.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

CHAPTER 5-05

MINIMUM HOUSING STANDARDS

SECTIONS:

5-0501. Adoption of Housing Code.
5-0502. Exceptions to Housing Code.
5-0503. Penalty.

5-0501. **ADOPTION OF HOUSING CODE.** There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to housing in the City of Harwood, that certain code known as the Uniform Housing Code, recommended and compiled by the International Conference of Building Officials, being particularly the 1988 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Auditor for the City of Harwood, with the exception of the sections hereinafter set forth affecting local conditions of the City of Harwood, which sections shall be substituted for and in lieu of like sections or paragraphs in said Uniform Housing Code; the City Council of said City of Harwood, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of Harwood, North Dakota. Provided, that any amendments of the 1988 edition of the Code may be adopted by the City by resolution.

5-0502. **EXCEPTIONS TO HOUSING CODE.** When any provisions of the Uniform Housing Code are in conflict with the Building Code, Mechanical Code, zoning provisions or other ordinances of the City of Harwood, those other ordinances shall prevail and supersede the provisions of the Uniform Housing Code.

5-0503. **PENALTY.** A violation of the regulations contained in this chapter shall be deemed an offense and shall be punishable by a fine of not to exceed Five Hundred Dollars ($500). Each day that a violation is permitted to exist shall constitute a separate offense. The provisions of Section 1-0211 shall also apply.

TITLE VI.

FIRE PROTECTION AND PREVENTION

CHAPTERS:

6-01. International Fire Prevention Code.
6-02. Public Conduct in Case of Fire.

CHAPTER 6-01

INTERNATIONAL FIRE PREVENTION CODE

SECTIONS:

6-0101. Adoption of International Fire Prevention Code.
6-0102. Definitions.
6-0103. RESERVED FOR FUTURE USE.
6-0104. Storage of Flammable Liquids.
6-0105. RESERVED FOR FUTURE USE.
6-0106. Non-Conforming Uses.
6-0107. Modifications by Chief of Volunteer Fire Department.
6-0108. Appeals.
6-0109. Validity.
6-0110. Penalties.

6-0101. **ADOPTION OF INTERNATIONAL FIRE PREVENTION CODE.** There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the provisions of the Code known as the International Fire Code, excluding all appendices, being particularly the 2003 edition thereof, as the same are now established in said Code, save and except such portions as are hereinafter deleted, modified, or amended by ordinance, or in accordance with other provisions of this title. A copy of said Code is on file in the office of the Chief of the volunteer fire department of the City of Harwood, and the same is hereby adopted and incorporated as fully as if set out in length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the 2003 edition of the International Fire Code may be adopted by the City by resolution. The Fire Prevention Code is also adopted as part of the Building Code of the City of Harwood.

6-0102. **DEFINITIONS.**

1. Whenever the word "municipality" or "City" is used in the International Fire Code, as hereinbefore more specifically identified in Section 6-0101, they shall be held to mean the City of Harwood.

2. Whenever the word "jurisdiction" is used in the International Fire Code, which code is hereinbefore more specifically identified in Section 6-0101, it shall be held to mean the corporate limits of the City of Harwood, North Dakota, as well as any area within the extraterritorial zoning jurisdiction of the City.

3. Whenever the term "corporate counsel" is used in the International Fire Code, as hereinbefore more specifically identified in Section 6-0101, it shall be held to mean the City Attorney for the City of Harwood, North Dakota.

4. Whenever the term "chief" is used in the International Fire Code, as hereinbefore more specifically identified in Section 6-0101, the same shall be construed to mean the chief of the volunteer fire department of the City of Harwood, North Dakota.

6-0103. **RESERVED FOR FUTURE USE.**

6-0104. **STORAGE OF FLAMMABLE LIQUIDS.** The limits referred to in the International Fire Code, in which storage of flammable or combustible liquids in outside above-ground tanks is prohibited, are hereby established as follows: "The corporate limits of the City of Harwood, North Dakota, except for property zoned C-1 - Light Commercial, C-2 - General Commercial, I-1 - Light Industrial for which a conditional use permit has been granted."

The limits referred to in the International Fire Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established as follows: "The corporate limits of the City of Harwood, North Dakota."

6-0105. **RESERVED FOR FUTURE USE.**

6-0106. **NON-CONFORMING USES.** The regulations prescribed in Section 6-0104 shall not be construed to require the removal or any other change or alteration of outside above ground storage tanks in which flammable or combustible liquids are maintained not conforming to said prohibitions as of the effective date hereof, or otherwise interfere with the continuance of any such non-conforming use, nor shall they be construed to prohibit or otherwise preclude the construction of outside above ground tanks for the storage of flammable or combustible liquids on the following-described premises: None - provided, however, that any application for a building permit for the construction of outside, above ground tanks for the storage of flammable or combustible liquids on the

hereinbefore described premises shall provide for designated, unobstructed access ways and/or fire hydrants sufficient to provide adequate fire protection as determined by the building official. Nothing contained in Section 6-0104 shall require any change in the construction, alteration, or intended use of any such structure if the construction or alteration was begun prior to the effective date of this ordinance, and is diligently prosecuted and completed within one year thereof.

6-0107. **MODIFICATIONS BY CHIEF OF VOLUNTEER FIRE DEPARTMENT.** The chief of the volunteer fire department of the City of Harwood, North Dakota, shall have the power to modify any of the provisions of this chapter upon application in writing by the owner or lessee, or his duly authorized agent, when there are particular difficulties in the way of carrying out the strict letter of the provisions of this chapter, provided that the spirit of this chapter shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the volunteer fire department of the City of Harwood, North Dakota, thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

6-0108. **APPEALS.** Whenever the chief of the volunteer fire department of the City of Harwood, North Dakota, shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of this chapter do not apply or that the true intent and meaning of this chapter have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the volunteer fire department of the City of Harwood, North Dakota, to the City Council of the City of Harwood, North Dakota. The appeal must be filed in writing with the City Auditor within thirty (30) days from the date of the decision appealed.

6-0109. **VALIDITY.** The City Council of the City of Harwood, North Dakota, hereby declares that should any section, paragraph, sentence, or word of this ordinance hereby adopted be declared for any reason to be invalid, it is the intent of the City Council of the City of Harwood, North Dakota, that it would have passed all other portions of this ordinance independent of the elimination hear from of any such portion as may be declared invalid.

6-0110. **PENALTY.** Any person violating any provision of the fire code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

CHAPTER 6-02

PUBLIC CONDUCT IN CASE OF FIRE

SECTIONS:

6-0201. Persons Allowed on Fire Fighting Vehicles.
6-0202. Persons Allowed to Proceed to Fire Hall.
6-0203. Persons Allowed to Assist in Fire Extinguishment.
6-0204. Fire Chief May Command Assistance.

6-0201. **PERSONS ALLOWED ON FIRE FIGHTING VEHICLES.** No person except members of the fire department or such persons as are authorized by the Fire Chief or Chief in charge shall ride on the fire truck or other vehicle containing fire apparatus.

6-0202. **PERSONS ALLOWED TO PROCEED TO FIRE HALL.** In cases when the fire siren on the fire hall has sounded, no persons except members of the fire department or such persons as are authorized by the Fire Chief or Chief in charge shall proceed to the fire hall.

6-0203. **PERSONS ALLOWED TO ASSIST IN FIRE EXTINGUISHMENT.** No persons except members of the fire department or such persons as are authorized by the Fire Chief or Chief in charge shall assist in the extinguishment of fires or preservation of property exposed to fire during the time the fire department is engaged in the extinguishment of a fire or preservation of property exposed to a fire, nor shall any person hinder or delay the fire department or any member thereof in performing his duty in the extinguishment of a fire or preservation of property exposed to a fire.

6-0204. **FIRE CHIEF MAY COMMAND ASSISTANCE.** The Fire Chief or Chief in charge shall have the power to command such assistance from persons in attendance at any fire in the extinguishment of fires and for the preservation of property exposed to fire as may, in his judgment, be required.

TITLE VII.

HEATING, AIR-CONDITIONING AND COMBUSTION UNITS

CHAPTERS:

7-01. General Provisions.
7-02. Heating and Air-Conditioning Plants.
7-03. Combustion Units.
7-04. Chimneys and Flues.
7-05. Gasoline Stoves.
7-06. Penalty.

CHAPTER 7-01

GENERAL PROVISIONS

SECTIONS:

7-0101. Definitions.
7-0102. Scope of Title.
7-0103. Minimum Requirements.
7-0104. Emergency Repairs.
7-0105. Certificate of Authority Required.
7-0106. Standards Adopted.
7-0107. Modifications of International Mechanical Code.

7-0101. **DEFINITIONS.** The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

1. "Person" includes any individual, firm, partnership, joint adventure, association, corporation, estate, receiver, or any other group or combination acting as a unit, and the plural as well as the singular number; their agents, employees and representatives.

2. "Building Inspector" means the Building Inspector of the City of Harwood and his authorized assistants.

3. "Heating and Air-Conditioning Plant" includes any heating or air-conditioning plant or system and the component parts thereof (except combustion units as defined in Paragraph 4 of this section) including but not limited to steam boilers, hot water boilers and warm air furnaces.

4. "Combustion Unit" includes any stoker, oil burner, oil burning equipment, gas burner, gas burning equipment, conversion burner, or incinerator and their component parts.

5. "Cooling System" is all of that equipment intended or installed for the purpose of cooling air by mechanical means and discharging such air through ducts into any room or space. This definition shall not include any evaporative cooler.

7-0102. **SCOPE OF TITLE.** This title shall govern the construction, installation, alteration, maintenance and repair of all heating and air-conditioning plants; chimney flues, combustion

units, gas burners, gas burner equipment and appliances; and gasoline stoves installed in or for all buildings within the City of Harwood, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City, except that the owner-occupant of any single family dwelling may, with the assistance of members of his family and household, personally perform any work governed by this title, but before doing the same shall obtain a permit therefor from the Building Inspector and pass inspection as hereinafter provided.

7-0103. **MINIMUM REQUIREMENTS.** The provisions of this title shall be held to be minimum requirements adopted for the protection of the health, welfare and safety of the community.

7-0104. **EMERGENCY REPAIRS.** In case of emergency, repair work may be proceeded without first obtaining the permit hereinafter required. Application for such permit shall be made within 24 hours after repairs are commenced, Sundays and holidays excepted. This Section shall not be construed to limit the right of Otter Tail Power Company and its authorized employees to render necessary services.

7-0105. **CERTIFICATE OF AUTHORITY REQUIRED.** Except as is otherwise provided in Section 7-0102 and Section 7-0104 of this title, no person shall engage in or carry on the construction, installation, alteration, maintenance and repair of heating and air-conditioning plants and combustion units and gas burners, gas burner equipment and appliances within the City of Harwood, or advertise, hold-out or otherwise represent himself as being qualified to perform such work without first securing and continuing in force a "Certificate of Authority" as hereinafter prescribed in this title.

7-0106. **STANDARDS ADOPTED.** The following standards are hereby adopted for all heating, air conditioning and other gas, oil, or coal consuming appliances within the City limits of Harwood, as well as for any area within the extraterritorial zoning jurisdiction of the City.

1. All heating, air conditioning, or other gas, oil, or coal consuming appliances for either domestic or commercial use installed in the City of Harwood shall bear a seal of approval from the American Gas Association, American Standards Association, Underwriters Laboratories, or other nationally recognized testing laboratory.

2. The provisions of the International Mechanical Code, sponsored by the International Conference of Building Officials, 2003 edition, as the same are now established

in said code, is hereby adopted as the Mechanical Code. Any amendments to the 2003 edition of the International Mechanical Code may be adopted by the City by resolution.

3. The following standards of the National Fire Prevention Association are hereby adopted as part of this code:

   A. NFPA No. 31, 2003 edition, for the installation of oil burning equipment; and

   B. The provisions of the rules and regulations of the 2003 edition adopted in subsection A are those that are now established in said code. Any amendment to that code may be adopted by resolution by the City Council.

7-0107. **MODIFICATIONS OF INTERNATIONAL MECHANICAL CODE.** The International Mechanical Code as adopted in Section 7-0106(2) is hereby changed and amended to read as follows:

3. Chapter 1 - Administration, Part III-Permits and Inspections. Sections 115.2, 115.3 and 115.3.2 are hereby changed and amended to read as follows:

   SECTION 115 - FEES 115.1 General. Fees shall be assessed in accordance with the provisions of this section or shall be as set forth in the fee schedule adopted by this jurisdiction.

   115.2 Permit Fees. The fee for each permit shall be as set forth by resolution of the Harwood City Council.

   115.3 Plan Review Fees. When a plan or other data are required to be submitted by Section 113.2, a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fees for mechanical work shall be equal to 25 percent of the total permit fee as set forth in Section 115.2.

   115.3.2 Incomplete or changed plans. When plans are incomplete or changed so as to require additional plan review, an additional plan review fee shall be charged at the rate shown in Section 115.2.

CHAPTER 7-02

HEATING AND AIR-CONDITIONING PLANTS

SECTIONS:

7-0201. Definitions.
7-0202. Permit and Approval of Plans Required: When.
7-0203. Duties and Powers of the Building Inspector.
7-0204. Appeals.
7-0205. Duties of Owner and Contractor.
7-0206. Replacements, Alterations, Additions and Repairs to Existing Heating and Air-Conditioning Plants.
7-0207. Clearances.
7-0208. Consent Required: Soliciting Prohibited.
7-0209. Modifications.

7-0201. **DEFINITIONS.** The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

1. The term "Gravity Warm Air Heating System" means any and all warm air furnaces enclosed within a casing of any type and any and all appurtenances thereto or connections therewith, intended to heat any building or enclosure by gravity air circulation only, wherein no mechanical forces or equipment is applied.

2. The term "Forced Air Conditioning" means one or more air heating units within individual housings or within one common housing, one or more motor driven blowers, or fans, smoke or vent pipes, individual leader pipes or trunkline systems, or both, with necessary control dampers for supply and return air, automatic controls, registers, faces and grills; and with provisions for other appurtenances such as filters, air washers, ozonators, humidifiers, etc., as may be desired.

3. The term "Floor Furnace" means a self-contained floor furnace, suspended from the floor of the space being heated, with means for observing the flame and lighting the furnace from the space heated.

4. The term "Warm Air Ceiling Panel System" means a system of heating wherein warm air is circulated through a ceiling "panel" to provide heat.

5. The term "clearance" means the distance prescribed between heating equipment and parts thereof and any structural combustible construction.

7-0202. **PERMIT AND APPROVAL OF PLANS REQUIRED: WHEN.** It shall be unlawful for any person to construct or install any heating or air-conditioning plant in or for any building, or to alter or repair any such existing heating or air-conditioning plant without first making written application to and securing a permit from the Building Inspector. Such application shall be accompanied by:

1. A plan or sketch in duplicate for such proposed construction, installation, alteration or repair, if required by the Building Inspector.

2. Where a permit is applied for the installation of any steam or hot water boiler, warm air furnace, or any device performing some specific service in connection with any heating or air-conditioning plant, the capacity of which device might affect, in whole or in part, the efficiency of the plant, the application shall be accompanied by test data, measurements, ratings, capacities, or such other information required by the Building Inspector from which the ratings or capacities of such boilers, furnaces or devices may be determined. The Building Inspector may require that such test data, measurements, ratings, or capacities shall be verified by affidavit of the manufacturer thereof or the contractor making such application. Where a rating cannot be secured from the manufacturer there shall be supplied the Input Boiler Rating.

3. The Building Inspector may waive the requirement of a permit where the alterations, or repairs to any existing heating or air-conditioning plant will not exceed $50.00, when such alteration or repair will not exceed the rated capacity of such, heating or air-conditioning plant and are not of such a nature as to render an inspection of the same desirable or necessary.

7-0203. **DUTIES AND POWERS OF THE BUILDING INSPECTOR.** It shall be the duty of the Building Inspector and he shall have the power:

1. To enforce the provisions of this title relating to heating and air-conditioning plants.

2. To make all necessary inspections of such plants.

3. To require all necessary tests to be made to determine the tightness of any steam or hot water installation or any air-conditioning plant, or any portion thereof, or any sheet metal ducts or pipes connected therewith, and to supervise such tests.

4. To require the immediate removal of any material or construction which conceals or covers up any newly installed portion of such plant prior to its inspection and approval by the Building Inspector.

5. To post a "Stop Work" notice on the premises where the work is in progress and to notify anyone concerned of such a notice when the work or project is being performed in violation of this title. After the posting of such notice no person shall do any further work on such project until the particular defect or violation has been eliminated to the satisfaction of the Building Inspector, when such notice shall be removed by the Building Inspector.

7-0204. **APPEALS.** A person may appeal orders, decisions, or determinations made by the building inspector relative to the application and interpretation of Title X of the ordinances of the City of Harwood. This appeal shall be to the City Council of the City of Harwood. The appeal must be in writing and filed with the City Auditor within thirty (30) days of the order, decision or determination made by the building inspector.

7-0205. **DUTIES OF OWNER AND CONTRACTOR.** It shall be the duty of the owner of a building or the contractor employed by him:

1. To notify the Building Inspector immediately upon completion of those portions of a new building or any addition to an older building upon completion of those portions of a heating or air-conditioning plant which are thereafter to be concealed or covered up, that said plant is ready for inspection and testing. There shall be posted by the owner or contractor in a conspicuous position on some portion of the installation a notice substantially in the following form:

   "WARNING: This installation and piping have not been inspected and approved by the Building Inspector and must not be covered up or concealed until so inspected and approved."

   No other person than the Building Inspector shall remove such notice until the heating or air-conditioning plant

has been inspected and approved by him. He shall then attach a certificate of such inspection and approval.

2. To notify the Building Inspector upon the completion of any installation of a heating or air-conditioning plant that the work is ready for inspection and tests by registering the number of the permit and the location of the work in an inspection order register book to be kept in the office of the Building Inspector for that purpose. Such tests shall be made by the contractor in the presence of and under the supervision of the Building Inspector. If found satisfactory and in compliance with the provisions of this title, the Building Inspector shall approve the same. Where approval is refused by the Building Inspector for any of the reasons set forth in this title, correction of such installations shall be made to meet such objections, and upon notice to the Building Inspector as above provided, he shall make a re-inspection thereof.

7-0206. **REPLACEMENTS, ALTERATIONS, ADDITIONS AND REPAIRS TO EXISTING HEATING AND AIR-CONDITIONING PLANTS.** The following regulations shall apply:

1. To replacements of existing equipment. Such replacements shall be of such capacity as would be required under this title if the same were installed for use in connection with a new plant or system, and designed to meet the heating or air-conditioning requirements for said building. Provided, however, that in a building other than a single family dwelling, where in the opinion of the Building Inspector, it would be impracticable or work an unnecessary hardship to require complete compliance with the foregoing requirements, a steam or hot water boiler, warm air furnace, fan, blower, air-conditioning equipment or appurtenance, based as to capacity on the connected load, may be installed to replace any existing equipment of like nature.

2. To alterations of existing equipment. Such alterations shall be made in conformity with the requirements of this title insofar as may be practicable in the judgment of the Building Inspector without impairing the efficient operation of the system, as a whole, or any portion thereof.

3. To additions to existing equipment. Wherever the heating or air-conditioning requirements of any existing building are hereafter increased either by the construction of an

addition thereto or by an increase in the portions of the building to be heated or air-conditioned, or in any other manner, the capacity of such heating or air-conditioning plant shall be increased to that capacity which would be required by this title for a new installation, designed to meet equal heating or air-conditioning requirements.

4. To repairs of existing equipment. All such repairs shall be made in such manner as to restore the equipment as near as is practicable to its original sound condition. When repaired, such equipment shall be subjected to such tests as may be required, in the judgment of the Building Inspector to satisfactorily demonstrate its ability to meet the service requirements to which it may normally be subjected.

7-0207. **CLEARANCES.**

1. Installations. Heating equipment and parts thereof shall be so located that the clear space between any heated surface and combustible construction is sufficient to prevent temperatures of more than 160 degrees on such constructions. Unless specifically provided otherwise, the clearance generally shall be as shown in Table I, following:

TABLE I - CLEARANCE WITH NO PROTECTION

Heating Unit	Above (a)	Minimum Clearance in Inches		
		Sides and Front and Rear		Smoke or Vent Pipe
Mechanical Warm Air Furnaces (with fan) automatically fired, with 250 degree temp. limit control (b)				
Burning liquid or solid fuel	6"	6"	48"	18"
Burning gas	6"	6"	18"	9" (c)
Gravity Furnaces				
Burning liquid or solid fuel	18"	18"	48"	18"
Burning gas	18"	18"	18"	9" (c)

(a) The clearance above warm air furnaces shall be measured from the furnace bonnet or warm air plenum chamber.

(b) "Mechanical warm air furnaces with 250 degrees temp. limit control" shall be defined as automatically fired warm air furnaces equipped with a fan to circulate the air and with approved automatic temperature limit controls that cannot be set higher than 250 degrees and if coal stoker is fired, equipped also with an automatic overrun control to operate the fan when the air reaches a temperature not higher than 250 degrees even though the controlling thermostat is not calling for heat.

(c) These clearances do not apply to approved type B gas vents (approved vent piping of non-combustible, corrosion-resistant material of adequate strength and heat insulating value and having bell and spigot or other acceptable joints). These clearances may be reduced to 6 inches for approved gas appliances which produce flue gas temperatures not in excess of 350 degrees at the outlet of the draft hood when burning gas at the manufacturer's input rating.

2. Attic furnaces. Attic furnaces or furnaces in attics shall not be installed unless of a type approved for such use with installation in accordance with the mounting and clearance provisions of this section.

3. Clearances required with protection. Heating furnaces may be installed with clearance to woodwork or other combustible material, as provided in the National Building Code and adopted by the City of Harwood.

7-0208. **CONSENT REQUIRED: SOLICITING PROHIBITED.** All installations, alterations, repairs or inspections of heating and air-conditioning plants shall be made only by order or authorization of the owner or manager of any building. No person shall engage in house to house canvassing or soliciting for the sale or supplying of such services.

7-0209. **MODIFICATIONS.** Where circumstances or conditions of any particular installation are unusual and such as to render the strict application of this title impracticable, the Building Inspector may, if he deems it safe, permit such modification as will provide a substantially equivalent degree of safety.

CHAPTER 7-03

COMBUSTION UNITS

SECTIONS:

7-0301. Definitions.
7-0302. Duties and Powers of Building Inspector.
7-0303. Stoker Installation.
7-0304. Oil Burner Installation.
7-0305. Gas Burner Installation.

7-0301. **DEFINITIONS.** The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. The term "Stoker" means a mechanical device for feeding solid fuel into the combustion chamber of a boiler or furnace used in connection with a heating plant whether automatically or manually controlled.

2. "Oil Burner" shall mean any device designed to burn fuel oil having a flash point of 100 degrees Fahrenheit or higher, as determined by the Tag Closed Test in accordance with the method of test adopted by the American Society for Testing Materials (ASTM Designation D56-36), and having a fuel tank or container with a capacity of more than ten gallons connected thereto.

3. "Oil Burning Equipment" shall include oil burners and all tanks, piping, pumps, control devices and accessories, including blowers for the distribution of warmed air connected to the burners.

4. The term "Gas Burner" means a device for the final conveyance of the gas or a mixture of gas and air, to the combustion zone of a boiler, furnace, device or appliance used in connection with a heating system and shall include conversion burners and gas designed appliances as hereinafter defined.

5. The term "Gas Burner Equipment" shall include gas burners, as above defined, and all piping, shut-off valves, fans, blowers, control devices and accessories connected to the burners.

6. The term "Conversion Burner" means a gas burning appliance designed to supply gaseous fuel to and properly burn the same within the combustion chamber of a boiler, furnace or other device originally designed to burn another fuel.

7. The term "Gas Designed Appliance" means all gas burning space heating appliances designed for the exclusive use of gaseous fuels either natural or manufactured.

7-0302. **DUTIES AND POWERS OF BUILDING INSPECTOR.** It shall be the duty of the Building Inspector and he shall have the power:

1. To enforce the provisions of this title relating to combustion units as herein defined.

2. To make all necessary inspections of such units.

3. To require all necessary tests to be made to determine the safety, adequacy and efficiency of such units.

7-0303. **STOKER INSTALLATION.** The construction, arrangement, equipment and manner of installation of all stokers, hereafter installed for use in connection with heating plants in or for buildings in the City of Harwood and the alteration hereafter of all such stoker installations shall conform to the following provisions:

1. Non-automatic Stokers Not Allowed: Exceptions: When. Stokers which are not equipped with automatic means of preventing excessive pressure or temperatures of the heating medium shall not be installed or operated in any location where a competent attendant will not be constantly on duty on the premises while the stoker is in operation.

2. Automatic Controls. Each mechanical stoker shall be equipped with at least one (1) high limit control so connected as to shut off power from stoker drive in the event of excessive pressure in a steam boiler or excessive temperature in a hot water boiler or warm air furnace casing. Each steam boiler or hot water boiler shall be equipped with a low water cut-off.

   Where there may be an over-run of heat due to sustained period of operation for the stoker, a reverse action control or equivalent control shall be installed in hot water or steam systems so as to relieve this condition.

On all installations where operation of stokers is controlled by an aquastat, pressurestat or furnacestat, a second control, either aquastat, pressurestat or furnacestat shall be installed in the 110 volt line ahead of all controls as a high limit or safety control.

3. Stoker Capacity, Setting Heights and Combustion Space. The capacity of a stoker for any given installation shall be in accordance with load carrying capacity set forth by the Stokers Manufacturing Association. In any event, the stoker installed shall have a capacity or feed rate not to exceed 50% greater than that required in said table of Stoker Manufacturers' Association.

   The distance from retort to crown sheet and the space for combustion, within any boiler or furnace, shall be such as to secure efficient smokeless combustion and shall be in accordance with the Table set forth by the Stokers Manufacturers' Association. Where stokers are installed in old boilers and strict compliance with the foregoing requirements cannot be met, minor modifications may be made subject to the approval of the Building Inspector.

4. Alterations to Combustion Chambers. Where stokers are installed in downdraft boilers, the upper grates shall be removed and baffling changed where necessary to secure an unrestricted combustion space.

5. Used Stokers: Reconditioned. It shall be hereafter unlawful for any person to install any used stoker, or for the Building Inspector to issue any permit authorizing such installation until such person shall have first submitted, with his application for such permit to install, a copy of the purchase order stating that a used, repaired or reconditioned stoker is to be installed and bearing a statement by the installer that said stoker has been properly reconditioned and will comply in every way with the requirements of this title for new equipment as to operation and adjustment.

6. Approval Required: It shall be unlawful for any person to install within the City of Harwood any stoker not approved by the Stoker Manufacturers' Association.

7. Stoker Equipment Installation Permit Required. Any person may install an approved stoker and its associated equipment in accordance with the provisions of this title, but no stoker equipment shall be installed in the

City of Harwood unless and until the Building Inspector shall have issued a permit for the specific installation.

8. Application. Application for the installation permit herein required shall be made in writing signed by the dealer or installer, stating the location of the property or building in which the installation is intended, the name, type and model of the stoker, type and model of controls, stoker capacity, setting heights and combustion space, accompanied by a sketch, if deemed necessary by the Building Inspector, showing the layout of controls for the purpose of installation.

9. Granting Permits. Within forty-eight (48) hours after filing of the application and sketch, the Building Inspector shall issue such a permit or in writing notify the applicant of changes required before a permit will be issued or the reason why the application is denied. Upon the required changes being made in the application or sketch, a permit shall be issued. No stoker equipment of a different kind than that specified in the application and no other changes shall be made, nor shall the installation be made in any other manner than as described in such application or shown in the sketch submitted therewith.

10. Inspection of Installations. All installations of stokers installed within the City of Harwood shall be inspected by the Building Inspector. An approval of installation shall be given the installer before any stoker is turned on for use. Installers of stokers shall give at least twenty-four (24) hours notice that a stoker installation is ready for inspection.

7-0304. **OIL BURNER INSTALLATION.** The construction, arrangement and manner of installation of all oil burners and oil burning equipment hereafter installed for use in connection with heating plants in or for buildings in the City of Harwood and the alteration or repair hereafter of such, installations shall conform to the following provisions:

1. Exception. This title does not apply to oil heaters and oil lamps equipped with a wick or a mechanical device, the movement of which is essential to flame adjustment. or to such portable apparatus as blow torches, soldering pots, etc., but does include all types, classes and sizes of oil burning water heaters and space heaters, regardless of their oil container or tank capacity.

2. Approval Required. It shall be unlawful for any person to install within the City of Harwood any oil burner not approved by the Underwriters Laboratories or other nationally recognized testing laboratory.

3. Inspection. The Building Inspector shall automatically approve any oil burners listed by the Underwriters Laboratory or any other nationally recognized inspection board or laboratory. Oil burners not listed by the Underwriters Laboratory or any other nationally recognized board or laboratory shall not be approved.

4. Oil Heating Equipment: Installation Permit. Any qualified person may install approved oil burning equipment in connection with an approved oil burner in accordance with the provisions of this title, but no oil burning equipment shall be installed in the City of Harwood, unless and until the Building Inspector shall have issued a permit for the specific installation.

5. Definition of Permit. A permit is the written authority of the Building Inspector issued pursuant to this title for the installation of an oil burner and its associated equipment covered by this title or any material entering into the composition thereof.

6. Application for Installation Permit. Application for an installation permit shall be made in writing signed by the dealer or installer stating the location of the property in which the installation is intended, the name, type, and model of the burner, type and model of controls, the number and capacity of tanks for storage of fuel, accompanied by a sketch, if deemed necessary by the Building Inspector, showing the layout of the proposed installation.

7. Granting Permits. Within forty-eight (48) hours after filing of an application and sketch in accordance with this title, the Building Inspector shall issue such permit or in writing notify the applicant of changes required before a permit will be issued or the reasons why the application is denied. Upon the required changes being made in the application or sketch a permit shall be issued. No oil burner or equipment of a different kind than that specified in the application and no tanks of different sizes, kind or quality shall be installed nor shall the installation be made in any manner other than as described in such application or shown in the sketch submitted therewith.

8. Inspection of Installation. All installations of oil burners or equipment within the City of Harwood shall be inspected by the Building Inspector. An approval of installation shall be given the installer before any oil burner is turned on for use. The installer shall give at least eight (8) hours notice that the installation is ready for inspection.

9. Installation of Used Oil Burners: Procedure to be Required. No person shall install a used oil burner for use in connection with a heating plant until he shall have furnished the Building Inspector with a statement that said oil burner has been put in first class operating condition and a letter from the purchaser acknowledging that said purchaser is buying a used oil burner.

10. Fuel Oil. The grade of fuel oil used with any oil burner shall be one which tests and experience have shown to be suitable for use with that burner. The oil shall have a flash point not less than 100 degrees Fahrenheit, determined as specified in paragraph 2 of Section 7-0701 of this chapter and shall be free from acid, grit and fibrous or other foreign matter likely to clog or inure the burner or valves.

11. Commercial Standard. The commercial standards (Grades 1, 2, 3, 5, and 6) for domestic and industrial fuel oil, set up by the U.S. Department of Commerce, Bureau of Standards Bulletin CS 12-4U (effective June 5, 1940) shall constitute standard grades for fuel oil sold or delivered to oil burners within the City of Harwood and it is hereby declared a violation of this title for any person to deliver for use as fuel in an oil burner or burners, or put into the storage tank of any oil burner or burners a grade of oil heavier than that which has been approved by the Building Inspector for use in such burner or burners.

12. Secondary Controls: Thermostats. All domestic types of oil burner installations in the City of Harwood shall be equipped with a modern type of thermostat for the secondary control of the oil burner.

13. Electrical Installations. Electrical installations used in connection with oil burning equipment shall be installed in accordance with the electrical code of the City of Harwood.

14. Combustion Chamber Dimensions. It shall be unlawful for any person to install any oil burner into a combustion chamber of a design, size or type other than that which has been specified by the manufacturer as being the correct design, size or type for the size of nozzle and angle of atomization, with which the oil burner being installed is so equipped.

15. Flue Gas Analysis Tests. Before any final approval shall be given by the Building Inspector on any installation of any type of oil burner covered by the provisions of this title, the person installing the same shall make a test or tests commonly known as a flue gas analysis in the presence of the inspecting officer if deemed necessary by the Building Inspector. The findings of such analysis shall be recorded upon the inspection approval form.

7-0305. **GAS BURNER INSTALLATION.**

1. Approval of Gas Burner.

   a. Permit Required. No apparatus or equipment to be used with gas supply from the general gas distribution system of the Northern States Power Company within the City of Harwood shall be installed or connected for use without a permit having been secured therefore from the Building Inspector.

   b. Certificate Required. No permits shall be issued by the Building Inspector for the installation or connection for use of any gas-fired apparatus or equipment (except domestic ranges, refrigerators, water heaters, or any gas equipment other than space heating equipment, having an input rating of less than 50,000 BTU per hour) supplied from the general gas distribution system of the Northern States Power Company located within the City of Harwood unless the application for said permit for such installation or connection is accompanied by a certificate from said company operating such system stating that it has the facilities and capacity to serve the equipment or apparatus at the location designed.

   c. Refusal of Gas Service - When. The Northern States Power Company shall refuse gas service to the premises wherein any gas-fired installation or connection is made contrary to the terms of this

title, upon discovery of same, until the same has been remedied or disconnected and removed.

d. Standards. All installations of mains, regulator stations, services and meter installations shall conform to the Gas Construction Standards on file in the office of the City Engineer of the City of Harwood. Such standards shall not be effective until approved by the City Council and any changes in such standards shall not be effective unless approved by the Building Inspector of the City of Harwood. However, regardless of such standards every high or medium pressure service shall have an outside shutoff valve and all low pressure services installed after January 1, 1962, shall have outside shutoff valves.

2. Appliances with Input of 400,000 BTU or Less.

a. Scope. The construction arrangement, manner of installation, alteration and repair of all gas burners, gas burner equipment and appliances as herein defined having an input capacity of 400,000 BTU per hour or less shall conform to provisions of this title.

b. Definitions. For the purpose of this Section the following definitions shall apply:

(1) Gas Burners and Gas Burner Equipment. The term "gas burner" shall mean a device for the final conveyance of gas or a mixture of gas and air to the combustion zone of a steam or hot water boiler, furnace, or to any device or appliance used in connection with a space heating system and shall include conversion burners, gas designed heating appliances, power gas burners and atmospheric gas burners. The term "gas burner equipment" shall include gas burners as above defined, together with all fans, blowers, control devices, accessories connected to the burners and piping involved in supplying the burner.

(2) Conversion Burner. The term "Conversion Burner" shall mean a gas burning device designed to supply gaseous fuel to and properly burn this fuel in the combustion

space of equipment, originally designed to burn another fuel.

(3) Gas Designed Heating Appliance. The term "gas designed heating appliance" shall mean any space heating appliance designed for the exclusive use of gaseous fuel, excepting such auxiliary heaters ss gas logs, radiant heaters, etc.

(4) Power Gas Burner. A "power gas burner" is one which either gas or air or both are supplied at pressures exceeding, for gas, the normal line pressure at the burner and for air atmospheric pressure, the added pressure being applied at the burner.

(5) Atmospheric Burner. An "atmospheric burner" is a device (other than a gas range or a gas water heater) in which air at atmospheric pressure is injected into the burner by a jet of gas under pressure not more than the house line pressure and whose input exceeds 50,000 BTU per hour.

c. Approval of Gas Burners. It shall be unlawful for any person, firm, corporation, or agent to install any gas burner, as defined within this title until such gas burner has been approved by the Building Inspector of the City of Harwood. The Building Inspector may approve all gas burners meeting the minimum requirements for approval or listing by the American Standards Association, sponsored by the American Gas Association and in compliance with requirements of this code.

d. Installation of Used Gas Burners. It shall be unlawful to install any used gas burner and no permit shall be issued authorizing such installation until the licensed installer shall have first submitted with this application for permit a copy of the purchase order stating that a used burner is to be installed and bearing an acknowledgment by the purchaser that such is the case together with a statement by the licensed installer that said burner has been reconditioned and will comply in every way with ordinance requirements for new equipment as to operation, safety standards and adjustments. No used gas

burner shall be installed unless it is of a type, make and model currently approved for installation in the City of Harwood.

e. Type of Gas. The requirements of this title shall apply to gas burners supplied with natural gas from the general distribution system within the City of Harwood. Burners and their installation where supplied with other types of gas, such as bottled or liquified petroleum gas, shall conform to the requirements of this title where applicable together with the requirements of the American Gas Association and the National Board of Fire Underwriters pertaining to the type of gas to be used.

f. Ventilation. Gas burners and gas burning appliances as hereinbefore defined shall not be installed for operation in a room where the normal facilities for ventilation do not permit proper combustion of the gas, unless special provision is made for supplying sufficient air for complete combustion.

Gas burners, gas burner appliances and space heaters will not be permitted in bedrooms, rooms used for sleeping purposes, bathrooms or any confined space or area unless proper provisions are made for the supply of primary and secondary air for combustion from outside of the building. Provisions shall also be made for proper venting to the outside.

Method of securing air for combustion and the proper venting of the appliances shall be secured from the Building Inspector before work is started on any specific installation.

g. General. The installation of conversion burners shall be made in conformance with the American Standards Association requirements as sponsored by the American Gas Association and with requirements herein set forth.

h. Preparation of Boilers and Furnaces. Before a gas burner is installed in any existing boiler or furnace, all flues, fire pots, combustion chambers and connecting joints through which flue gases are conducted shall be thoroughly cleaned, examined for

leaks and draft conditions and made gas tight as shown by a smoke bomb test or its equivalent.

i. Flues and Flue Pipes. The chimney flue and flue pipe shall be examined and reconditioned if necessary so that they will freely conduct the flue gases to the outer air. Where flue pipes are rusted or burned out, they shall be replaced by new pipe.

j. Removal of Oil Burners. Where a gas burner is installed and an oil burner removed, it shall be mandatory that the vent and fill pipes to the storage tank be removed and all openings to the storage tank plugged.

k. Draft Hoods. Each gas burning appliance shall be equipped with a draft hood or its equivalent designed to:

(1) Insure the ready escape of the products of combustion in the event of no draft, back draft, or stoppage beyond the appliance.

(2) Prevent a back draft from entering the appliance.

(3) Neutralize the effect of stack action of the flue upon the operation of the appliance.

The draft hood shall be placed in and made a part of the flue pipe from the appliance or shall be in the appliance itself. Such device shall have a free area equal to or greater than the cross-sectional area of the flue pipe connected thereto subject to the approval of the Building Inspector.

The draft hood shall be located at a point not lower than the top of the highest flue passage in the appliance.

Appliances of the revertible flue type shall have the draft hood located at least one foot higher than the top of the highest flue passage. Proper provision shall be made, subject to the approval of the Building Inspector, to prevent the accumulation of gas in any part thereof. Revertible flue type furnaces shall have as a minimum a two (2) inch

bleeder cut through if trapped more than twelve (12) inches.

l. Flue Pipes. The internal cross-sectional area of the flue pipe between the appliance and the chimney liner shall be such as to provide not less than one square inch of flue area per 7,500 hourly BTU input. In no case shall this flue pipe be less than five (5) inches in diameter for central heating gas appliances nor less than four (4) inches in diameter for space heating appliances and it shall not be larger than the next integral inch diameter above the sizes given in the following table:

Minimum Permissible Flue Sizes
For Gas Burner Installations

Input Rating BTU per hour	Area of Flue Outlet Sq. inch	Diameter Flue Pipe Inches
95,500	12.6	4
147,000	19.6	5
212,250	28.3	6
288,750	38.5	7
377,250	50.3	8
477,000	63.6	9

Based on 1 sq. in. flue area per 7,500 BTU per hour input.

NOTE: If flue pipe exceeds 10 feet in length or contains more than two elbows, use next size larger pipe and draft hood.

In cases where the outlet from the appliance is larger than the above indicated size, an orifice plate may be inserted, or a section of the flue pipe restricted to the size indicated between the appliance outlet and the draft diverter. In special cases with high chimneys or flues, the above schedule of areas may be modified subject to specific approval of the Building Inspector.

The draft hood should ordinarily be located adjacent to the appliance. In cases where it appears desirable to place the draft hood at a distance from the appliance, the size of the

restricted section may be modified according to the length and rise of the flue pipe.

The proportioned section at the flue outlet of the appliance eliminates the necessity of using an adjustable damper in the flue pipe and such damper will not be permitted.

Where dampers are an integral part of the boiler or furnace, they shall be removed or permanently secured in the wide open position, except such dampers the function of which is to alter the passage of the flue gases through the appliance, which shall be locked in such a position as not to interfere with the normal operation of the burners.

m. Construction of Flue Pipes. Material used for flue pipe shall be such as to resist the corrosive action of flue gases.

Flue pipe of existing systems shall be relocated where necessary and new flue pipe installations shall be so made as to avoid sharp turns or other constructional features which could create excessive resistance to the flow of flue gases. Flue pipe shall slope upward to chimney.

Flue pipe shall be tightly connected to the chimney liner, so as to prevent infiltration of cold air.

No baffles shall be applied which will interfere with the proper combustion of gas.

Flue pipe shall be well supported to prevent sagging and shall not be installed closer than six (6) inches to any combustible building materials unless flue pipe is covered with incombustible insulation such that the surface temperature of the exterior surface thereof attain a temperature of not higher than one hundred twenty-five (125) degrees Fahrenheit when the appliance is under continuous operation.

All space heating equipment shall be of the vented type and properly vented to an effective flue. Heaters of a sealed unit type vented through a wall to the atmosphere will be accepted if approved by the American Gas Association.

n. Radiant Heaters. Radiant Heaters or other unvented heaters of less than 25,000 BTU input may be installed in fireplaces providing the chimney has a positive draft with the damper closed.

o. Gas Burners. Gas burners of all types shall consist of assembled and tested units and shall be accompanied by complete and comprehensive installation and operation instructions. The burner or burners shall be located according to the manufacturers' instruction and shall be so secured that they will not twist, slide or drop out of position.

p. Installation of Gas Burners. The burners shall be so installed as to be readily accessible for cleaning and inspection. The burner or burners shall be so installed that no part of the flames impinge on the heating surface so as to cause incomplete combustion.

Air shutters shall be adjusted to produce a proper flame at the prevailing gas pressure.

On all installations where the combustion air pressure can exceed the house line pressure, an approved check valve or other approved device shall be installed in the gas supply line to prevent air from backing into the gas line.

q. Air Intake. Where secondary air is necessary, secondary air opening or openings shall be provided of sufficient area to supply an adequate amount of air for complete combustion under the specified draft conditions and at the maximum rate of firing.

Where an automatic secondary air control is provided, the construction shall be such that in case the control fails in any way, either the gas will be shut off or the secondary air door will remain open.

The air intake of power burners shall be so located as to prevent the possibility of accidental closure. The gas and air supply shall be equipped with controls coordinated to prevent opening of the gas supply until the air supply is adequate for proper combustion and to shut off the gas supply in the event of failure of the air supply.

r. Pilots. Each gas burner shall be equipped with a safety device arranged to prevent the flow of gas through the main burner unless the pilot flame is burning, to consist of a thermostatic pilot or other approved type of safety device. The operation of this device shall not depend upon the closing of an electric circuit to shut off the main gas supply. Gas burners installed under Section 2n are exempt from this provision.

Pilot burners shall be rigidly supported in such a manner that their position relative to the main burner or burners will be fixed.

Pilot burner or burners shall be so placed that they can be safely lighted and they shall be readily accessible or removable for cleaning.

The gas supply line to the pilot or pilots shall be connected to vertical main gas supply lines or to the side or top of horizontal lines ahead of the main burner governor and appliance shut-off valve and shall be provided with a separate cock. Provided, however, that where complete shut-off type automatic pilot is provided with approved flow interrupter, the pilot line shall be connected to this control and such control shall be located ahead of the main burner governor and after the appliance shut-off valve.

Room heaters, floor furnaces and recessed wall heaters shall be equipped with complete shut-off type of automatic pilot.

Thermostatic safety pilots shall be so adjusted that main gas supply will be shut off within three minutes after pilot flame has been extinguished under continuous operating conditions.

Copper or iron tubing shall not be used for supply piping within the burner heat zone to pilot burners.

s. Main Shut-off Valve or Cock. A manually operated approved shut-off valve or cock shall be installed at each appliance to shut off the entire gas supply to appliance.

Such valve or cock shall be so located that it is readily accessible at about five (5) feet above the floor and shall clearly indicate the "on" and "off" positions, or direction of rotation to open or close. Where a cock is provided, the opening handle shall be securely attached to the plug in such manner that it may not be readily removed.

t. Automatic Control. Electric control valves shall be installed according to the instructions furnished by the manufacturer. All heating equipment shall be automatically controlled by thermostat except heaters installed in fireplaces as provided in Paragraph 2n.

u. Electric Wiring. All electrical connections shall be made in accordance with the provisions of all Building and Electrical codes relating to the installation of electric wiring in 2v.

v. Gas Pressure Regulators. An approved gas pressure regulator shall be installed on the downstream side of the pilot supply on all gas burners and a pressure regulator and pilot filter shall be installed in all pilot lines, downstream from the pilot shut-off cock, on all burners. Pressure regulators and pilot filters shall be of a type listed for approval by the American Gas Association and shall be approved by the Building Inspector.

w. Limiting Devices. The boiler or furnace shall be equipped with safety devices arranged to limit high steam pressures or water temperatures, as well as high air temperature in warm air furnaces and all such devices shall be subject to the approval of the Building Inspector.

Each gas fired steam boiler shall be equipped with a low-water cut-off approved by the Building Inspector.

Safety devices operated electrically shall not depend upon the closing of a circuit to shut off the main gas supply. This requirement shall not be construed as prohibiting the use of electrical regulating devices, providing the required safety devices are also installed. Controls shall be so connected that maximum inherent safety provided by such controls will be attained.

Safety shut off valves, if used, shall be tested to assure gas tightness of the seal when in the closed position; the valve assembly shall be gas tight in all positions. Packing glands shall be designed so that the valve will not be made inoperative by excessive tightening of the packing nut.

Either the valve shall incorporate means for requiring a manual operation for reopening of the valve after it has closed or the electrical circuit shall be so arranged as to require a manual operation to reopen the valve after it has been closed. In no case shall valves be able to be opened manually until safety pilots are lighted and circuit completed or low-water cut-off circuit has been completed.

x. Piping. Gas piping installed for serving conversion burners or gas designed heater appliances shall be sized for a total pressure drop not exceeding 0.3 inches water gauge from the meter to the burner for the total connected load. A separate pipe from the meter is to be preferred and in no case shall the service pipe be smaller than the size of equipment connection. All gas piping shall be installed in conformance with the provisions of this title and in conformance with American Standard Association's requirements.

y. Chimney Liners. Except as exempted in this section and except on approved incinerators as designated in this title, masonry chimneys serving gas fired boilers, furnaces or heating devices, whether of the gas designed type or fired by gas conversion burners, shall be lined continuously from the thimble to the top with an approved incombustible, acid and corrosion resisting liner of the same equivalent internal cross-sectional area as the flue pipe or pipes extending from the appliance or other appliances to the chimney liner. A condensation pocket shall be provided at the base of said liner with provisions for a drip, so arranged that excessive condensation of flue products may be disposed of without damage to chimney, foundation, floor or footings. Such liners shall be constructed of material having a thickness before coating of not less than No. 22 U.S. Standard Gauge. Where such liners are constructed of uncoated materials and inherent

characteristics of which show a high degree of resistance to acids and corrosion, a lighter gauge may be used, subject to the approval of the Building Inspector. If the masonry chimney is of Type A Underwriter's construction and is provided with a glazed tile flue liner or a vitrified bell type flue liner installed with bells upward, set in acid and moisture resistant mortar, of ample size for the load but not less than 8" equivalent diameter, the above flue liner may be omitted. In the event the chimney flue serving the conversion fired or gas designed appliance also serves one or more appliances other than gas fired, the above provided liner may be omitted. On larger installations where burners are in more or less continuous operation and stack temperatures are sufficiently high to minimize the possibility of condensation within the chimney, the chimney liner may be omitted, subject to the approval of the Building Inspector.

z. Adequacy of Draft. In the event conditions at the time of installation are such that the chimney or vertical flue has insufficient natural draft to properly carry away the products of combustion or is subject to down drafts, provision shall be made by the installer to rectify existing conditions, or provide mechanical means of maintaining constant updraft during appliance operation.

aa. Adjustment of Burners. After the piping has been thoroughly purged, the pilot burner shall be lighted and adjusted and the burners put into operation in accordance with the manufacturer's instructions.

ab. Pilot Operation. Pilot flames shall effectively ignite the gas at the main burner or burners and shall be adequately protected from drafts. A device which under normal chimney draft conditions is at least equal in performance to the draft hood hereinbefore provided for, shall be interpreted as fulfilling the second part of this requirement as far as chimney drafts are concerned.

Pilot flames shall not become extinguished when the main burner or burners are turned on or off in a normal manner, either manually or by automatic controls.

Luminous flame pilots shall not show carbon deposits when adjusted according to the manufacturer's instructions.

Where escapement pilots are used, their flames shall be freely ignited by the constant burning pilot.

ac. Burner Operation. The flames from each burner shall freely ignite the gas from adjacent burners when operating at the normal gas pressure or when the main control valve is regulated to deliver about one-third (1/3) the full gas rate, except where additional pilots are provided. If the additional pilot is a runner type pilot, this pilot must be proven by a safety mechanism before the main burner valve can open.

Burner flames shall not flash back upon immediate ignition, nor upon turning the gas cock until the gas rate to the burner is about one-third (1/3) the full supply.

Burner flames shall not flash back when the gas is turned on or off by any automatic control mechanism.

Main burner flames shall ignite freely from each constant burning pilot when the main control valve is regulated to deliver about one-third (1/3) the full gas rate and when pilot flame is reduced to minimum point at which it will actuate the safety thermostatic device. The holding port of multiple port pilots must satisfactorily ignite the main burner if the ignition port, or ports, are stopped.

Burners shall be of such design that ignition from pilot or pilots shall carry to all ports or burner heads protected by the pilot at inputs from one-third (1/3) to maximum rating.

When ignition is made in a normal manner, the flames shall not flash outside appliance. Burners shall not expel gas through air openings in mixer faces when operating at the normal burner pressure.

Note: In making the test under Part ac., care shall be exercised to prevent the accumulation of unburned gas in the

appliance or flues which might result in explosion or fire.

ad. Appliance Performances. The flue gas temperature as taken on the appliance side of the draft hood shall not exceed 480 degrees Fahrenheit above that of the air temperature surrounding the appliance. The concentration of CO_2 shall not exceed 9%, the concentration of CO shall not exceed .04%, the concentration of oxygen shall be not less than 4% nor more than 10%.

Method of Test: Gas Designed Equipment - The rate of flow of the gas shall be adjusted to within plus or minus two (2) percent of the required hourly BTU input rating at the manifold pressure specified by the manufacturer. When the prevailing pressure is less than the manifold pressure specified, the gas rate shall be adjusted at the prevailing pressure. The appliance shall be allowed to operate until the stack temperature becomes stabilized, after which a sample of the flue products shall be taken at a point in the flue after the outlet of the appliance but ahead of the draft hood, and analyzed for carbon dioxide, carbon monoxide and oxygen.

Method of Test: Conversion Burners - The rate of flow of gas shall be adjusted to within plus 5% or minus 15% of 1.7 times the calculated hourly BTU heat loss of the building in which it is installed. The appliance shall be allowed to operate until the stack temperature becomes stabilized, after which a sample of the flue products shall be taken at a point in the flue after the outlet of the appliance but ahead of the draft hood, and analyzed for carbon dioxide, carbon monoxide and oxygen.

The various controls of the appliance shall be checked by the installer to insure their proper operation.

Upon completion of the test of any newly installed gas burning equipment as hereinafter provided in Section 2-ad and its subsections, the installer shall file with the Building Inspector, in duplicate, complete records of such test, if deemed necessary by the Building Inspector.

ae. Instructions to the Owner and/or Occupant. The owner and/or occupant shall be thoroughly instructed by the installer as to the proper and safe operation of the appliance before it is placed in service, such instructions to include actual demonstration to the customer or his authorized agent of the processes of lighting and turning off the gas burner. A printed set of instructions, enclosed in an envelope labeled "Instructions to Customer" shall be securely attached to the gas valve.

A metallic plate, suitably etched or stamped, setting forth detailed instructions for the safe lighting and shutting off of the appliance, shall be permanently attached to the appliance in a prominent position near the lighting apertures. The size of type used shall be not smaller than ten (10) point and the wording contained thereon shall be subject to the approval of the Building Inspector. This plate shall also state make and model numbers of the burner and show the rate hourly gas BTU input.

3. Technical Regulations for Gas Burner Installation Exceeding 400,000 BTU.

a. Scone. The construction, arrangement, manner of installation, alteration and repair of all gas burners for steam and hot water boilers, furnaces, industrial power and process uses shall conform to this title. The requirements for installation of gas burning equipment in power boilers as adopted by the American Standards Association, sponsored by the American Gas Association, shall be considered herein as minimum requirements.

Before approval for installation is granted for initial installation, after adoption of this title, plans and specifications and/or official literature and data, including piping arrangements, type and model of controls, capacities of equipment, and wiring diagram shall be submitted to the Building Inspector for preliminary approval. Upon receiving preliminary approval, the installation shall then be made accordingly, and final approval shall not be granted until the equipment has been tested in the presence of the Building Inspector. Such tests shall consist of orsat testing, within acceptable

limits where applicable, pressure regulation, stack temperature, control operation, pilot turn down, flame lockout and such other tests as may be deemed necessary by the Building Inspector.

b. Definitions. For the purpose of this section, the following definitions shall apply:

(1) Gas Burners and Gas Burning Equipment: the term "gas burner" shall mean a device for the final utilization of gas, or a mixture of gas and air in any steam hot water boiler, furnace, air heater and devices and appliances for power industrial, space heating and process used in connection with a heating system or commercial and industrial applications, and shall include conversion burners, gas designed equipment, power burners, atmospheric burners, dual fuel burners and process and industrial equipment and shall include all auxiliary and equipment accessories including flue pipe control devices, electric wiring diagrams, piping diagrams, gas controls, safety controls, and accessories in connection with the equipment and all piping supplying said equipment with gas, air or mixtures thereof.

(2) Conversion Burner: The term "conversion" burner" shall mean a gas burning device designed to supply gaseous fuel to and properly burn this fuel in the combustion space of equipment originally designed to burn another fuel.

(3) Power Gas Burner: A power gas burner is one in which either gas or air or both are supplied at pressures exceeding, for gas, the normal line pressure at the burner and for air, atmospheric pressure; the added pressure being applied at the burner.

(4) Atmospheric Burner: An atmospheric burner is defined as a device in which the air at atmospheric pressure is induced into the burner by a jet of gas under pressure not more than the house line pressure.

(5) Dual Fuel Burner: A dual fuel burner is defined as a burner designed to burn either gas or oil but not both simultaneously.

(6) Gas Designed Equipment: Gas designed equipment is defined as equipment designed as an integral unit for burning gas only as fuel.

(7) Process and Industrial Equipment: Process and industrial equipment is defined as all gas burning equipment burning gas or a mixture of gas and air for industrial process applications.

(8) Gas Pressure: For the purposes of this title, gas supply pressure shall be classified as follows:

Low Pressure - up to and including 14" W.C.
Medium Pressure - from 14" W.C. to & including 25 P.S.I. gauge
High Pressure - over 25 P.S.I. gauge

c. General Regulations.

(1) All burners for space heating applications shall be accompanied by complete and comprehensive operating instructions and wiring diagrams.

(2) Where burners are equipped with secondary air shutters or louvres, they must be designed or counter-balanced so as to drop to a wide open position in the event of failure or breakage of connecting linkage. They shall also be of sufficient area to supply adequate air for complete combustion under specified draft conditions and at maximum rate of firing.

(3) The burner or burners shall be located according to the manufacturer's instructions and shall be so secured that they will not slide, twist or drop out of position.

(4) The burner or burners shall be so installed as to be readily accessible for cleaning and inspection.

(5) The burner or burners shall be so installed that no part of flame shall impinge on heating surface so as to cause incomplete combustion.

(6) On all installations where the combustion air pressure can exceed the house line pressure, an approved check valve or other approved device, shall be installed in the gas supply line to prevent air from backing into the gas line.

(7) Under no condition shall the equipment be fired at a capacity greater or less than that shown in the official data supplied by the manufacturer, or at greater or less gas pressure than the maximum or minimum pressures, as listed by the manufacturer, or as approved by the Building Inspector.

(8) All equipment is to be installed in the basic manner in which the original approval was obtained, and wiring and piping diagrams shall accompany each permit application when the input is 1,000,000 BTU per hour or more and when different from the original approval or requested by the Building Inspector.

d. Piping. All gas piping under this section shall be wrought iron or black steel pipe where applicable with malleable or steel fittings and shall be designed so that the pressure drop through the piping does not exceed that which will supply the proper pressure for the particular application and shall be carefully tested for leaks. Adequate drips shall be installed at any point at which liquid condensate could collect, and such drips shall be readily accessible for cleaning. Gas piping shall not be supported from other pipes and shall be securely hung so that proper grade will be maintained.

An approved type of main shut-off cock shall be installed in a readily accessible location for the convenient operation of the burner and ahead of all other gas controls. When this cock is two (2) inches in size or larger, or the gas pressure exceeds fourteen (14") in W.C. pressure, it shall be of the lubricated plug type and in all cases

shall have a permanently attached handle, which shall clearly indicate the "on" and "off" position.

A firing cock of a suitable type may be installed downstream of all controls that start and stop the flow of gas to the firing equipment if desired.

All pilot lines shall be equipped with an approved shut-off cock.

e. Combustion Gas Controls. For a burner or a combination of burners not exceeding 500,000 BTU input per hour, a combustion control of the on and off type may be used. This control may be of either the quick opening or slow opening type.

For a burner or a combination of burners not exceeding 5,000,000 BTU input per hour, approved on and off type of controls may be used, provided a slow opening automatic gas valve is used. This valve shall have a maximum closing time of five (5) seconds. In addition to the slow opening valve, an approved automatic valve of the positive closing type shall be installed upstream of the slow opening type of valve.

For burners or a combination of burners with an input exceeding 5,000,000 BTU per hour, an approved modulating, or high-low type of gas control must be used in addition to the slow opening and positive gas valves described in Subsection 3-e, or an approved combination modulating and slow opening valve. This modulating or high-low control shall be of a type that controls the firing rate of the equipment throughout its entire range and so adjusted that the minimum and maximum firing rate stays within the limit as specified for the equipment by the manufacturer and within the limits of the particular application to which it is applied.

Modulating controls may use steam, air, hydraulic or electricity as an actuating medium and shall be so arranged that the gas burning equipment starts and stops in the minimum firing position for the particular application and suitable means shall be provided to prevent starting of the main flame until the controls are in the minimum firing

position on installation exceeding 5,000,000 BTU per Hr.

Modulating controls that are inter-connected by mechanical linkage to inlet air louvres of natural draft burners, shall have this linkage so arranged that the louvres will go to the open position in the event of failure of the linkage, provided such failure could change the fuel-air ratio.

On equipment with approved programming controls, the positive closing gas valve may be of either the automatic or the manual reset type. On equipment with constantly proved pilot, and on which the positive closing valve and flame failure control relay does not program with the starting and stopping of the main flame, the valve shall be of the approved manual reset type. On equipment with an input of less than 5,000,000 BTU per hour, automatic types of positive closing may be used on either type of pilot control provided that they do not require the closing of a circuit or relay, and are of the "normally closed" type of valve.

f. Gas Pressure Regulators. Approved types of gas regulators shall be used on all gas burning equipment. These regulators shall maintain a stable gas pressure to the equipment, within the range of pressure set up by the manufacturer of the gas burning equipment.

For low pressure, an approved gas pressure regulator shall be installed.

For medium pressure, an approved pressure regulator shall be installed upstream of all other controls when the inlet pressure is not regulated by the utility and this regulator shall be rated at not less than the maximum street pressure.

Where the inlet pressure is regulated by the utility at a pressure not exceeding five (5) psi, an approved regulator shall be installed. This regulator shall be rated at not less than five (5) psi and may be either up or down stream of other operating controls.

For high pressure, not less than two gas pressure regulators shall be installed downstream of the

Utility Company meter, one of these to be normally at the meter location and pressure reduction shall be accomplished in not less than two stages. Both the first and second regulators shall be designed for, and capable of handling the maximum street pressure available. If a third stage of regulation is desired, this regulator shall be rated for not less than the outlet pressure of the first stage regulator unless installed downstream of the operating controls.

A limiting device shall be installed on the downstream side of the final stage of pressure regulation, on medium and high pressure. This limiting device shall be so arranged that it will close the main gas control valves in the event the gas pressure exceeds the proper regulated pressure. This limiting device shall be so arranged that it will require manual re-cycling or re-setting before the equipment can be put back in operation.

g. Operating and Limit Controls. Steam boilers shall be equipped with not less than one operating control, and one high limit control, and low water cut-off.

Hot water boilers shall be equipped with not less than one operating and one high limit control, activated by boiler water temperature. Operating controls actuated by water temperature shall be of immersion type, mounted directly into the boiler water, the high limit control may be of the surface type, mounted on the rise or risers adjacent to the boiler, ahead of all flow and other controls.

Warm air furnaces shall be equipped with not less than one operating and one high limit control. These controls shall be so located that failure of fans or air circulation through the unit will not appreciably affect their operation, or such fans shall be equipped with air switches to prevent operation of the equipment in the event of fan failure.

Thermostats, where directly operating the gas burning equipment, may be considered operating controls.

Where forced or induced draft is used, an approved air switch shall be installed to prevent operation of the equipment at any time such draft is not definitely established and maintained at predetermined adequate setting.

Electrically operated safety device shall not rely on closing a circuit or relay to close the main gas valve or valves.

Primary air fans shall be equipped with an approved positive method of preventing the burner from starting or remaining in operation in the event of failure of the primary air source.

h. Plain Pilot. Each burner shall be equipped with a plain gas pilot or gas pilots in addition to the safety pilot to insure smooth lighting of the burner so that there will be no roll back or heavy detonations during lighting off period, except that where the burner unit is of such size that safety pilot only will light burner smoothly, the plain pilot may be omitted. The pilot flame shall effectively ignite the gas at the burner and shall be so designed as to be adequately protected from drafts where required. Pilot flames shall not become extinguished by the main burners when starting or stopping them in a normal manner. Luminous flame pilots shall not show carbon deposit during the period of tests when adjusted according to the manufacturer's instructions.

Where the vertical or upshop type of burner consisting of a multiplicity of heads is used, a minimum of one plain gas pilot for each eight heads must be used. In arriving at the number of pilots, the safety pilot will be counted as one plain gas pilot above eight heads; below eight heads there must be at least one plain gas pilot and a safety pilot unless the Building Inspector approves a lesser number.

i. Safety Pilots and Controls. Where the total input to any gas burning device exceeds 400,000 BTU all burners shall be equipped with approved flame rectifier, flame conductivity or scanner cell types of safety controls. Heat sensitive type of pilots will not be permitted.

Safety pilots shall be so designed that upon insertion of pilot after removal for repairs or cleaning, pilot will be in the same position relative to main burner as when originally installed. The pilot flame shall be in such a position that in the event of a drop in gas pressure, the contact between the pilot flame and flame rod or scanner shall be broken before the point where the pilot light will fail to reliably ignite the main burner.

The control system used in conjunction with the electronic safety pilot shall be of a type to lock out the main flame in approximately five (5) seconds or less, and shall require a manual re-set operation before flame can be reestablished. All safety pilots shall be equipped with positive closing automatic gas valves, and shall close in the event of an indicated failure.

Forced or induced draft equipment and natural draft type burners with supplementary air fans with modulating or closing air shutters with an input in excess of 1,000,000 BTU per hour shall be so arranged that a pre-purge period of approximately thirty (30) seconds is obtained. This pre-purge shall occur before establishing ignition on intermittent or interrupted pilots and before establishing main flame or continuously proved pilots.

Where a switch is installed in a low water cut-off circuit to keep the circuit to the safety shut-off valve closed when blowing down water column, switch must be of the push button type so that when operator releases button the control circuit to safety shut-off valve will be normal.

All pilot burners shall be supported in such a manner that their position relative to the main burner or burners will remain fixed.

Pilot lines shall be connected to vertical supply lines when possible. When horizontal line is used, connection must be made on top or side. Connection must be ahead of all controls, (except pressure regulator on medium and high pressure) and main shut-off valve and shall be provided with separate shut-off cock. Where gas pressure is greater than

that for which pilots are designed, a pressure regulator (pilot regulator) must be installed on the downstream side of pilot line shut-off cock.

Safety shut-off valves shall be tested to assure gas tightness of the seam when in a closed position; the valve assembly shall be gas tight in all positions. Packing glands shall be designed so that the valve will not be made inoperative by excessive tightening of the packing nut.

j. Venting of Controls. Pressure regulators, slow opening gas valves and other gas equipment requiring venting shall be vented to a safe point outside of the building, or to a point in the breaching or stack, where the volume or flow of air is such that a combustible mixture cannot be obtained.

k. Draft Controls. Approved draft controls are to be used on all equipment, except when forced and induced draft is used in conjunction with controls that modulate the forced or induced draft in the direct ratio with the fuel modulation, and shall be used with forced or induced draft modulating systems when they are attached to a stack which may disturb fuel air ratio due to its draft intensity to the equipment.

(1) Barometric Draft Controls: These draft controls are to be of the "gas" type control, free to swing both ways. Barometric type draft controls shall have a cross sectional area equal to approximately seventy-five percent (75%) of the cross sectional area of the breaching from equipment which they are regulating.

(2) Mechanical Draft Controls: This type of control may use hydraulic pressure steam, air or electricity as an actuating medium and shall be so arranged that they will program to the open position before ignition is established or interrupted or intermittent piloted equipment, and before main flame is established on constantly proved pilot equipment and shall be equipped with a positive means of delaying the equipment, before the open position is obtained.

l. Dual Fuel Equipment. All dual fuel equipment, using gas as one of the fuels must comply with the requirements of this section, in controlling the gas equipment and shall be so arranged that no adjustments are changed or required when changing fuels. Dual fuel equipment shall be equipped with an on-off-on type of transfer switch that will not pass through the center off position without stopping in the "off" position.

m. Inspection and Tests. All installations shall be carefully tested for the proper operation of all controls and electrical circuits. Upon completion of fire testing and adjustment, a complete test report shall be filed with the Building Inspector in accordance with forms supplied by the Building Inspector.

Piping shall be carefully tested for leaks.

n. Industrial Applications. On certain industrial and process applications, where certain parts of these regulations cannot be met as required, individual approval must be obtained from the Building Inspector before a permit will be issued or installation can be made.

o. Air Intake. Gas burning equipment in buildings where adequate air for combustion is not assured, shall have fresh air intakes of the permanently open type, or with closeable dampers. Air intakes with closeable or automatic type dampers that program with the equipment, shall be equipped with a positive lockout device to prevent operation of the equipment unless the damper is open to a predetermined position.

4. Incinerators: Domestic or Portable Type.

a. General Provisions. Portable or domestic incinerators or rubbish burners may be installed and vented into the same flue with gas fired boilers, furnaces or heating devices, providing the incinerator or rubbish burner installation conforms to the following requirements:

(1) The incinerator shall be designed with gas or constant electrical auxiliary heating elements

to facilitate the drying and combustion of garbage.

(2) When gas fired, the incinerator shall conform to the American Standard Requirements for Domestic Gas-Fired Incinerators.

(3) When equipped with electric heaters, the incinerator shall conform to standards established by the Underwriters' Laboratories, Inc., and features shall meet the requirements of the standards for gas-fired equipment.

(4) The incinerator shall bear the manufacturer's tag or name plate permanently attached stating the fuel for which the unit is designed and the input rating.

b. Venting. The vent from the incinerator shall be connected to a masonry flue by means of a smoke pipe constructed of metal suitable for operation of 1800 degrees F. temperature. Where such smoke pipe is within eighteen (18) inches of combustible materials, such materials shall be provided with one-half (½) inch fireproof insulation.

Where the masonry chimney is of Type A construction and is provided with a glazed tile flue liner or a vitrified bell type flue liner installed with bells upward, of ample size for the load of the incinerator in addition to other appliances connected thereto, but not less than eight (8) inches equivalent diameter, the metal chimney liner required elsewhere in this code, may be omitted.

Where the masonry flues are not provided with tile flue liners as above described then the flue shall be provided with flue liner constructed of materials approved for operation with temperatures of 1200 degrees F., this liner to receive the vents from the incinerator and other devices and to be sized for the total load.

An approved spark arrester shall be installed on the chimney or flue to which the incinerator is connected.

c Piping. The piping for incinerator shall conform to the requirements of Paragraph 2-x.

CHAPTER 7-04

CHIMNEYS AND FLUES

SECTIONS:

7-0401. Owner's Duty to Provide Proper Chimney.
7-0402. Chimney and Flue Draft Measurements.
7-0403. Regulation of Drafts.
7-0404. Draft Measurements.

7-0401. **OWNER'S DUTY TO PROVIDE PROPER CHIMNEY.** It shall be the duty of the owner of any new building in which it is hereafter proposed to install any warm air furnace, steam or hot water boiler or any conversion burner using a liquid or solid fuel, for use in connection with a heating system in such building to provide an all-purpose chimney with at least a seven (7) inch flue to withstand a minimum temperature of 1000 degrees F., thereby providing a chimney suitable for utilizing all types of fuel; and in all old construction where new heating plants are to be installed, the chimney shall be inspected and repaired so as to be put in first-class condition and an approved chimney liner installed if required by the Building Inspector.

7-0402. **CHIMNEY AND FLUE DRAFT MEASUREMENTS.** Before any final approval shall be given by the Building Inspector on an installation of any type of combustion unit herein covered by the provisions of this title, the person, firm or corporation or their agents making the installation of the burner shall make in the presence of the inspecting officer a test or tests for determining the amount of draft actually present upon or in connection with any and all burners attached to the chimney or flue, if requested by the Building Inspector.

7-0403. **REGULATION OF DRAFTS.** Chimney and flue drafts shall be set or regulated in such a manner as to be in accordance with the specifications of the burner's manufacturer or in compliance with the American Society of Heating and Ventilating Engineers.

7-0404. **DRAFT MEASUREMENTS.** Draft measurements shall be recorded upon the final inspection approval certificate if required by the Building Inspector.

CHAPTER 7-05

GASOLINE STOVES

SECTIONS:

7-0501. Standards for the Installation, Maintenance and Use of Gasoline Stoves for Cooking and Heating.
7-0502. Classification.
7-0503. Standards - Location of Stoves.
7-0504. Location of Outside Tanks.
7-0505. Fuel Piping.
7-0506. Care and Attendance.

7-0501. **STANDARDS FOR THE INSTALLATION, MAINTENANCE AND USE OF GASOLINE STOVES FOR COOKING AND HEATING.** These standards shall apply to all new and existing installations and all persons shall be governed by the provisions hereinafter set forth whether or not specifically named.

7-0502. **CLASSIFICATION.** The following classifications are designed for the purpose of giving recognition to various types of stoves now being manufactured and used, on the basis of the hazards involved in operation and use:

Class A. Stationary Stoves Furnished with Anti-flooding Device: Stoves of this classification feed the fuel to the burners either by gravity or pressure from the tank located at the stove, whose liquid capacity does not exceed approximately one (1) gallon, or employ pressure feed or fuel from an outside tank whose fuel capacity does not exceed six (6) gallons and in all cases are furnished with anti-flooding devices. Stoves of this classification are regarded as constituting the least danger.

Class B. Stationary Stoves Not Furnished With Anti-flooding Device: Stoves of this classification feed the fuel to the burners either by gravity or pressure from a tank located at the stove, whose liquid capacity does not exceed approximately one (1) gallon, or employ pressure feed or fuel from an outside tank whose fuel capacity does not exceed six (6) gallons and are not furnished with anti-flooding devices. Stoves of this classification are regarded as more dangerous than those of Class A. The possibility of drafts extinguishing the burner flame is of prime importance in connection with Class B Stoves, which are not provided with anti-flooding devices.

Class C. Portable Heaters Equipped with Anti-flooding Device: Heaters of this classification feed the fuel to the burner by pressure from a tank located at the heater whose liquid capacity does not exceed approximately one (1) gallon and are designed and intended to be readily carried from one place to another as desired and used as a source of local heat and are always equipped with anti-flooding devices. Heaters in this classification are regarded as even more dangerous than those covered in Class A and B since their gasoline supply is in close proximity to the flame and they are portable, whereby rendering it possible that they may be placed too close to combustible material.

7-0503. **STANDARDS - LOCATION OF STOVES:** Stoves should be placed on the floor or on permanent foundations and never on boxes, shelves, or temporary supports. Locations in close proximity to wooden shelves, cupboards or other combustible materials shall not be allowed.

Stoves shall be located away from windows or other openings where drafts may blow curtains or draperies into contact with the flame.

Stoves provided with outside storage tanks shall be attached to the floor to prevent breaking of fuel lines.

7-0504. **LOCATION OF OUTSIDE TANKS.** Outside tanks which may have a fuel capacity of not exceeding six (6) gallons (U.S.) and which feed the fuel either directly to the burner or to the one-gallon tank mounted on the stove shall be so located that no artificial light will be required while filling.

Installation of such tanks shall be made outside the building well removed from all openings where escaping fuel or vapor may enter or accumulate. Tanks shall be suitably protected from extreme heat and accumulations of ice and snow.

7-0505. **FUEL PIPING.** Fuel piping for connecting outside tanks to stationary stoves shall be 3/16 inch O.D. seamless drawn copper or brass tubing having a wall thickness of at least 3/64 inch and shall be of suitable quality to withstand the effects of handling and manipulation in installation and use. Tubing shall be provided with approved fittings not depending upon ordinary solder for strength.

The piping shall not be secured in place with staples or other fittings likely to injure the tubing. Tubes shall be run in iron pipes from supply tank to inside of building wall and be protected

by wooden moldings or iron pipe where the distance above the floor is less than seven (7) feet.

Fuel piping shall in no case be concealed behind walls or ceilings and shall be protected by sleeves where passing through floors, partitions or walls.

Fuel piping shall be supported in ceiling runs at intervals not exceeding six (6) feet by metal strips or the equivalent.

When piping is installed near electric wiring, the requirements of the National Electrical Code shall be observed. Where tubes cross wires, pipes or metal girders, protection from mechanical injury shall be provided.

Tubing shall be thoroughly tested after all connections have been made and shall not show loss within one (1) hour at a pressure of fifty (50) pounds per square inch.

Tubing shall be provided with a separate shut-off valve installed inside the building at a point easily reached in an emergency.

7-0506. **CARE AND ATTENDANCE.** Reserve supplies of fuel oil shall be kept in standard safety cans or filling cans or in larger containers conforming to the standards for storage and handling of flammable liquids.

Filling of tanks or reservoirs on stoves in buildings shall be by daylight only and not in the same room where or while any fire, blaze or flame of any kind is burning.

Filling tanks shall be carefully done in order to avoid spilling and splashing with the attendant hazards.

Stoves shall be kept clean and manufacturer's directions closely followed.

CHAPTER 7-06

PENALTY

SECTIONS:

7-0601. Penalty.

7-0601. **PENALTY.** Any person violating any of the provisions of this title, or failing to comply therewith, or who violates or fails to comply with any code, standard or requirement therein adopted by reference, or who constructs or installs any heating or air conditioning plant, gas burning equipment or appliance or combustion unit in violation of any plans, specifications or sketches upon which the same was submitted and approved or any permit issued thereunder shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. The imposition of one penalty for any violation or non compliance of this title shall not excuse or permit the same to continue; and all such persons shall be required to correct or remedy such violations or non-compliances within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced correction or removal of prohibited conditions.

TITLE VIII.

PLUMBING CODE

CHAPTERS:

8-01. General Provisions.

CHAPTER 8-01

GENERAL PROVISIONS

SECTIONS:

8-0101. Adoption of North Dakota State Plumbing Code.
8-0102. Amendment of State Plumbing Code.
8-0103. State to Administer and Enforce Code.
8-0104. Right of Entry.
8-0105. Protection of Water Supply System.
8-0106. Penalty.

8-0101. **NORTH DAKOTA STATE PLUMBING CODE ADOPTED.** The North Dakota State Plumbing Code is hereby adopted and all installations, repairs and alterations of plumbing shall, from the effective date of this ordinance, be performed in accordance with its provisions. The installation in buildings of the pipes, fixtures, and other facilitating apparatus for bringing water into, and using the same in buildings, and for removing liquids and water-carried wastes therefrom and including the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system, and the public or private water-supply systems, within or adjacent to any building or other structure, or conveyance, also the practice and materials used in the installation, maintenance, extension, or alteration of the storm water or sewage system of any premises to their connection with any point of public disposal or other terminal in the City of Harwood, North Dakota, shall meet the provisions of the North Dakota State Plumbing Code as the same are now established in said Code, copies of which said Code are on file with the City Auditor and are hereby a part of the chapter by reference, with the exception of the sections hereinafter set forth affecting local conditions in the City, which sections shall be substituted for and in lieu of any like sections or paragraphs in the North Dakota State Plumbing Code; and the City Council, by this section, hereby approves and adopts such rules and regulations, as so modified, for use and application in the City of Harwood, including any area within the extraterritorial zoning jurisdiction of the City.

8-0102. **AMENDMENT OF STATE PLUMBING CODE.**

A. No services shall be constructed from a main for any purpose having a greater capacity than fifty percent of

the main, and in no case shall a service be larger than eight inches in diameter.

B. Services one and one-half inches in diameter or less shall be of copper pipe, which shall conform to the latest revision ASTM Specification B88-33 for underground services known as Type "L" soft tubing, or greater. Taps on water mains may be made up to two inches in diameter except on mains of six inches diameter or less when taps larger than one inch will not be permitted.

C. Services one and one-half inches in diameter or less which are located in the same trench as the sewer service main, shall conform to the latest revision ASTM Specification B88-33 for underground services known as Type "K" soft tubing, or greater, and said water service pipe must be placed at an elevation at least twelve inches above the sewer service.

D. If the water service is placed in the same trench as the sewer service, the sewer service shall be subject to the following requirements:

(i) Shall not leak when subjected to a ten-foot head of water, or equivalent.

(ii) Joints must be water-tight and root-proof.

(iii) A sewer pipe must be dwv schedule 40 plastic or heavier.

(iv) The sewer service must be installed at least twelve inches lower than the water service.

E. Services over one and one-half inches in diameter shall be either copper or PVC 900 pipe connected to the main by a Zapping sleeve and valve or tee. Gate valves below four inches shall not be used. Any service less than four inches in size shall have a four-inch gate valve with proper reducers.

F. No new service shall be constructed and no existing service shall be changed in such manner that more than one building shall be on same service.

G. Copper services shall have at least two feet of extra length between the main and the curb cock.

H. 1. All new businesses that have deep fryers or grills, prepare or cook meat, or require a grease extracting hood that exceed 100 mg. per liter FOG regulation, must install a grease trap or interceptor. All grease traps and interceptors must be designed using standard engineering principles for sedimentation and floatation in gravity separators. Sufficient grease and storage capacity is required, with the minimum capacity of 50 GPM flow rate. Other treatment works or devices designed to remove greases from the wastewater may be used but must be approved in writing by the City Agent. All businesses maintaining grease trap interceptors must maintain the grease traps and interceptors so that they perform in the manner in which they are designed. Each business must maintain a log setting forth the maintenance on the grease traps or interceptors, which logs shall be available for inspection by an employee of the City of Harwood within the normal business hours of the business.

2. Businesses that exist as of the date of this ordinance that have deep fryers or grills, prepare or cook meat, or require a grease extracting hood that exceeds 100 mg. per liter FOG regulation, are grandfathered and are not required to install a grease trap or interceptor as set forth above, except the business must do so if any of the following conditions apply:

(i) The business undertakes a major renovation of the cooking area in the business.

(ii) The business makes major upgrades to kitchen equipment in the business.

Any existing business which is required to install grease traps and interceptors as a result of this section shall be ordered to install one within a reasonable period of time as set in a written notice from the City Agent.

8-0103. **STATE TO ADMINISTER AND ENFORCE CODE.** The administration and enforcement of this chapter shall be by the State of North Dakota, who shall be referred to in this chapter as the "administrative authority" and who is hereby authorized to enforce the provisions of this chapter and to make the inspections and tests required thereunder. The State may appoint a person or persons to act on its behalf as such administrative authority. The State shall be responsible for the setting and collection of fees, the granting of permits and the inspections required by the North Dakota State Plumbing Code.

8-0104. **RIGHT OF ENTRY.** The administrative authority shall have the right to enter any premises at reasonable times for the purpose of inspecting any plumbing system.

8-0105. **PROTECTION OF WATER SUPPLY SYSTEM.** The administrative authority shall make such rules and regulations in furtherance of the purposes of this title and not inconsistent with the specific provisions of this title for the installation, repair or alteration of air-conditioning systems, water-treatment equipment, and water-operated devices as may be deemed necessary to properly protect the water supply system.

8-0106. **PENALTY.** Any person violating any provision of the plumbing code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

8-0107. **LICENSE REQUIRED.** No individual or company shall engage in the business of plumbing in the City of Harwood unless at all times a registered and license master plumber, who is responsible for the proper installation thereof, is in charge of such work. No person shall engage in the business of plumbing as a master plumber or journeyman plumber without being licensed and registered as a master plumber or journeyman plumber by the State of North Dakota. No local license will be required.

TITLE IX.

WATER, GARBAGE AND SEWER ERVICE

(Source: Ord. 2009-7)

CHAPTERS:

9-01. Water and Garbage Service.
9-02. Sewer Service.

CHAPTER 9-01

WATER AND GARBAGE SERVICE

(Source: Ord. 2009-7, Sec. 1)

SECTIONS:

9-0101. Water and Sewer Service Connection, Repairs and Rates for Water and Sewer. (Ord. 2009-9, Sec. 1)
9-0102. Water Service Connection - Permit Required.
9-0103. Water Service Connection - Who May Make - Cost.
9-0104. Water Service - Construction and Maintenance by Owner.
9-0105. Curb Cocks.
9-0106. Water Meters Required.
9-0107. Water Rates and Charges - Liability For.
9-0108. Garbage Service.
9-0109. Penalty.

9-0101. **WATER AND SEWER SERVICE CONNECTION, REPAIRS AND RATES FOR WATER AND SEWER.** The City Council of the City of Harwood shall, by resolution, establish the procedure and cost for connection to water and sewer lines in the City of Harwood, set the monthly charges for water and sewer service, and set out the City's and customer's responsibilities for repairs to water and sewer lines.

Source: Ord. 2009-9, Sec. 1 (2009)

9-0102. **WATER SERVICE CONNECTION - PERMIT REQUIRED.** Plumbers shall first secure a permit from the City before making any connection with a main, and no plumber or other person shall make any attachment or connection to a main to serve premises other than the premises describe described in the permit.

1. No permit shall be issued for the making of any connection between any water or sewer lines in any property which has not previously been benefitted by existing water and/or sewer lines, or whenever the owner of such property has not been assessed for such water and sewer facilities, unless and until such person shall have paid or made a written agreement with the City to pay in monthly installments within a maximum of five years an amount of money as may be thereafter determined by the City Council. Such amount shall be based upon the area served and the benefit resulting to the property involved. Within thirty (30) days from the date of receipt of such application, the City Council shall

determine the amount of money required to be paid before such connection shall be made and shall advise the applicant property owner of such determination. All such monies paid in and received pursuant to the provisions of this subsection shall be placed in the water and sewer utility fund and shall be expended in accordance with the purpose of such fund.

2. No permit shall be issued for the making of any connection between any water main of the City and any property of which any special water main assessment taxes are delinquent.

3. No connection shall be made except under the direct supervision of the Water Superintendent.

4. Any connection made without prior inspection by the Water Superintendent shall be subject to excavation.

9-0103. **WATER SERVICE CONNECTION - WHO MAY MAKE - COST.** All taps or connections to the water mains shall be made under the supervision of the Water Superintendent. The fee for such taps shall be established by resolution of the City Council and all taps shall be paid for before made. Should a tap be made without the supervision of the Water Superintendent, the City Council will impose a fine established by resolution of the City Council and excavation will be necessary to expose the tap for inspection by the Water Superintendent.

9-0104. **WATER SERVICE - CONSTRUCTION AND MAINTENANCE BY OWNER.** The cost of original installation of all plumbing between the main and any service devices maintained by the consumer and all extensions made to such plumbing, as well as repairs, shall be borne entirely by the consumer, although such plumbing and services as well as the meters shall at all reasonable times be subject to inspection by duly authorized representatives of the City. Any repairs found to be necessary by such representatives shall be made promptly, or the City will discontinue service.

All services shall be constructed by licensed plumbers at the owner's expense, and each service shall be maintained by the owner. Services heretofore acquired by the issuance of special assessment warrants and assessed against the property, or which may be acquired in the future in like manner, shall likewise be maintained by the owner. Services means the service line running from the point of connection with the City main to owner's premises.

9-0105. **CURB COCKS.** There shall be a curb cock in every service line attached to the water mains, the same to be placed as

near as possible to the curb if on a street, or within one (1) foot of the alley line if the main is located in the alley. Curb cocks shall be supplied with strong suitable "T" handles and shall be enclosed in a substantial iron case covered with a tight fitting iron lid with the letter "W" cast upon it. There shall be one or more stops and waste cocks attached to every supply pipe at some point between the curb cock and the meter so that the water can be shut off and the meter and the house plumbing entirely drained. There shall be another such stop and waste cock in the pipe on the house side of the meter.

9-0106. **WATER METERS REQUIRED.**

1. No person, firm or corporation shall take water from the water mains of the City except when drawn through a water meter as provided herein.

2. Meters for residences shall be furnished by the City at no charge to the customer. Each separate residence shall also require a remote reader and the installation and cost of said remote reader shall be paid by the owner. The Water Superintendent shall inspect all residential installations. No installations shall be made except under the direct supervision of the Water Superintendent. Any installation made without prior inspection by the Water Superintendent shall be subject to removal and fine.

3. All commercial and industrial water users shall purchase and install their own meters. The Water Superintendent shall inspect all such installations.

9-0107. **WATER RATES AND CHARGES -- LIABILITY FOR.**

1. Owners of premises where water is supplied shall notify the City when a tenant moves from his premises, and such notification shall be made prior to the date of moving. In the event any said tenant moves from said premises to other premises in the City, and is there supplied with water, he shall be liable for the water used at his former residence up to the time of moving, and the Water Superintendent shall take such measures to enforce the collection of such water bills as are provided for in the case of non-payment of other water bills. In the event any said tenant moves away from the City or moves to some place within the City where he is not directly supplied by the City with water and refuses or neglects to pay said bills within fifteen (15) days after notice thereof, then and in that event the owner of the property for which said bill was rendered shall be liable for the same, and the Water Superintendent shall take such

measures to enforce collection of such water bill as are provided for in the case of non-payment of other water bills.

2. The owner or owners of all real property in the City furnished with water service or service line repairs shall be responsible for the payment of any and all such charges regardless of who the occupant or tenant of any property may be. Upon the request of the owner or owners, the Water Superintendent shall bill the occupant or tenant for such charges, but if such charges are not paid when due by the occupant or tenant, the owner or owners shall be responsible for such charges.

9-0108. **GARBAGE SERVICE.** Any person with water service requesting not to have garbage picked up at the water connected address should notify the City Auditor, at which time the City Auditor will notify the waste company hired not to pick up any garbage from the person requesting this said item.

Any person with water service with no garbage pick up will be responsible for the removal of any garbage without use of the City dumpsters or another resident's curbside pick up place.

9-0109. **PENALTY.** A violation of this chapter may be punishable as an infraction as set forth in Section 1-0211 of these ordinances.

CHAPTER 9-02

SEWER SERVICE

(Source: Ord. 2009-7, Sec. 2)

SECTIONS:

9-0201. Definitions.
9-0202. Sanitary Sewers, Building Sewers and Connections.
9-0203. Use of Public Sewers.
9-0204. Prohibitions and Limitations or Wastewater Discharges.
9-0205. Connections Outside City.
9-0206. Protection from Damage.
9-0207. Penalties.
9-0208. Savings Clause - Conflict.
9-0209. Prohibited Connections to Sewer System - Inspection and Surcharge Authority - Waiver Provisions.

9-0201. **DEFINITIONS.** The following words, terms and phrases are hereby defined and shall be interpreted as such throughout this chapter. Terms not herein defined shall have the meaning customarily assigned to them:

1. "Control authority" shall mean the Public Works Director of the City of Harwood or his duly authorized deputy, agent or representative.

2. "BOD (biochemical oxygen demand)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20E Celsius expressed in milligrams per liter.

3. "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.

4. "Building sewer (also house connection or service sewer)" shall mean the extension from the building drain to the public sewer or other place of disposal.

5. "City" shall mean the City of Harwood, a municipal corporation of the State of North Dakota.

6. "Clean Water Act" shall mean the Federal Water Pollution Control Act, Public Law 92-500, also known as the Clean

Water Act, including the amendments made by the Clean Water Act of 1977, Public Law 95-217 and any amendments hereafter adopted.

7. "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.

8. "Commercial" or "institutional users" shall mean all nonresidential users which introduce only sanitary sewage or primarily segregated domestic wastes into a building sewer.

9. "Director" shall mean the Public Works Director of the City of Harwood, or his authorized deputy, agent or representative.

10. "Easement" shall mean an acquired legal right for the specific use of land owned by others.

11. "Floating oil" shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pre-treated and the wastewater does not interfere with the wastewater facilities.

12. "Garbage" shall mean the putrescible animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

13. "Industrial cost recovery" shall mean recovery by the City of Harwood from the industrial users of the Harwood wastewater treatment system of the amount of federal grant money used for the purpose of constructing wastewater facilities allocable to the transportation and treatment of waste from such users.

14. "Industrial cost recovery period" shall mean a period of 30 years starting at the time of receipt of federal grant money used for the purpose of constructing wastewater facilities during which the grant allocable to the treatment of waste from industrial users is recovered from the industrial users of such facilities.

15. "Industrial user" shall mean any nondomestic source regulated under section 307(b), (c) or (d) of the Clean Water Act that introduces pollutants into the City's wastewater treatment works.

16. “Interference” shall mean inhibition or disruption of the sewage works, treatment process, or operations which cause or significantly contribute to the violation of the requirements of other agencies having jurisdiction over discharges to the receiving waters. This term also includes contamination of municipal sludge.

17. “Industrial waste” shall mean waste discharged from an industrial user.

18. “Letter of intent” shall mean notification from an industrial user to the City of Harwood of that user’s intent to utilize a publicly owned treatment facility for a given period of time.

19. “Natural outlet” shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.

20. “May” is permissive. (See “Shall”).

21. “Minor industrial users” shall mean an industrial user not classified as a significant industrial user.

22. “Categorical Pretreatment Standard” or “Categorical Standard.” Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

23. “National Pretreatment Standard”, “Pretreatment Standard”, or “Standard” shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to Section 403.5.

24. “Existing Source” shall mean any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

25. “Interference” shall mean a discharge which alone or in conjunction with a discharge or discharges from other sources: 1) inhibits or disrupts the POTW, its treatment

processes or operations or its sludge processes, use or disposal and 2) therefore is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

26. "New Source" shall mean:

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at a site which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation

meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin as part of a continuous onsite construction program

(i) Any placement, assembly, or installation of facilities or equipment, or

(ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment, or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

27. "Pollutant" shall mean any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, minitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e. pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, odor).

28. "Pretreatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by the process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

29. “Pretreatment Requirement” shall mean any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

30. “Toxic Pollutant” shall mean one of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.

31. “Owner” or “occupant” shall mean the persons using the lot, parcel of land, building or premises connected to and discharging sewage into the sewage system of the city, and who pays or is legally responsible for the payment of water rates or charges made against the said lot, parcel of land, building or premises, if connected to the sewage system, or who would pay or be legally responsible for such payments.

32. “Pass through” means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation).

33. “Person” shall mean any individual, firm, company, association, governmental agency, society, corporation, group or political subdivision.

34. “pH” shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams contained in one liter of solution.

35. “Premises” shall mean all the parcels or land included in the city in a single assessor’s parcel number.

36. “POTW” shall mean publicly owned treatment works or POTW shall mean a treatment works as defined by Section 212 f the Act, which is owned by a state or municipality (as defined by Section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It is also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

37. “Properly shredded garbage” shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (one and twenty-seven hundredths (1.27) centimeters) in any dimension.

38. “Public sewer” shall mean a sewer in publicly owned land or easements and controlled by the City of Harwood.

39. “Reserve capacity” shall mean the unused portion of the Fargo Wastewater Treatment Plant capacity that has or will be formally set aside for use by a specific industry, and is so identified by a formal, binding agreement. The reserve capacity shall be subject to industrial cost recovery.

40. “Sewage”: See “Wastewater.”

41. “Sewage Treatment Plant (also wastewater facilities)” shall mean all facilities for collecting, pumping, transporting, treating and disposing of sewage.

42. “Sewer” shall mean a pipe or conduit for carrying sewage.

43. “Sewer use charge” shall mean a monthly charge to all users of the wastewater facilities which is based on sewage volume, strength and/or flow.

44. “Shall” is mandatory. (See “May”).

45. “Significant Industrial User (SIU)”:

    (1) Any industrial user subject to Categorical Pretreatment Standards; or

    (2) (a) Any other industrial user that discharges an average of 25,000 gallons per day or more process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); or

        (b) contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

        (c) is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting

the POTW's operation or for violating any pretreatment standard or requirement.

46. "Significant noncompliance" shall mean that an industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports; and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

47. "Slug" shall mean any discharge of water, sewage, or industrial waste in which concentration of any given constituents or in which quality of flows exceed for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or flow during normal operation.

48. "State" shall mean the state of North Dakota.

49. "Storm drain (also storm sewer)" shall mean a sewer which carries storm and surface waters and drainage, but which excludes sewage and industrial wastes other than uncontaminated cooling water.

50. "Total Suspended solids (TSS)" shall mean total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

51. "Wastewater (also sewage)" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any ground water, surface water, and stormwater that may be present.

52. "Wastewater superintendent" shall mean the Public Works Director of the City of Harwood or his authorized deputy, agent or representative.

53. "Water superintendent" shall mean the Public Works Director of the City of Harwood or his authorized deputy, agent or representative.

54. "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

9-0202. **SANITARY SEWERS, BUILDING SEWERS AND CONNECTIONS.**

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City Engineer.

B. There shall be two classes of building sewer permits:

1. For residential and commercial service, and

2. For service to establishments producing industrial wastes. In either case, the owner, or his agent, shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the City Engineer. A permit and inspection fee shall be paid to the City at the time the application is filed. The amount of such fee shall be established by resolution of the City Council.

C. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

D. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the director to meet all requirements of this ordinance.

F. The size, slope, alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

G. Whenever possible, the building sewer shall be brought to tile building at an elevation below the basement floor. In all buildings in which any building drain is too low

to permit gravity flow to the public sewer, sanitary sewerage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

H. No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer, or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Director and the North Dakota State Department of Health.

I. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the director before installation.

J. The applicant for the building sewer permit shall notify the director when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the director or his representative.

K. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

9-0203. **USE OF PUBLIC SEWERS.**

A. Materials prohibited in sewers. No person shall discharge or cause to be discharged to any public sewer any materials which may cause interference with the operation or performance of the treatment works, or which may pass through such treatment works so as to cause the treatment works to violate the terms of its discharge permit or provisions of federal, state or local laws. No person shall discharge or cause to be discharged any of the following-described waters or wastes to any public sewers:

(a) Any waters or wastes containing toxic or poisonous solids, liquors gasses in sufficient quantity (either singly or in interaction with other wastes), to contaminate the sludge of any municipal system, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant. No person shall discharge any liquid waste into the sewage system containing materials in excess of the following concentrations, or in the case of pH levels, containing a pH level less than 5 or greater than 12.5:

Pollutant	Concentration
Arsenic (As)	2.8 mg/l
Benzene	0.05 mg/l
BETX	0.75 mg/l
Cadmium (Cd)	0.20 mg/l
Chromium (III)	5.86 mg/l
Chromium (VI)	0.65 mg/l
Copper (Cu)	2.82 mg/l
Chromium (Total)	5.57 mg/l
Lead (Pb)	1.6 mg/l
Mercury (Hg)	0.001 mg/l
Nickel (Ni)	5.6 mg/l
pH	5 to 12.5
Selenium (Se)	0.26 mg/l
Silver (Ag)	2.0 mg/l
Zinc (Zn)	18.17 mg/l

Concentrations apply at the point of discharge to the City collection system. BETX shall be measured as the sum of benzene, ethylbenzene, toluene, and xylenes.

Total SIU BOD mass loading at the wastewater treatment plant headworks shall not exceed 7,353 pounds per day. Total SUI TSS mass loading at the wastewater treatment plant headworks shall not exceed 4,825 pounds per day.

Where an industrial user is subject to categorical pretreatment standard(s) that control pollutants not enumerated above, or contain limitations that are more stringent than indicated above, the industrial user is subject to the requirements of the categorical pretreatment standard(s). Under no circumstances shall the industrial user achieve

compliance with the above limitations or categorical pretreatment standards by diluting its industrial waste with tap water, unpolluted water, sanitary sewage, or any other liquid diluent.

B. Industrial waste permit.

1. No significant industrial user shall discharge wastewater to the public sewers without having a valid industrial waste permit issued by the director. A permit may be required for any industrial user as deemed necessary by the director.

2. Industrial users shall comply fully with the terms of their permits in addition to the provisions of this chapter. Violation of a permit condition is deemed a violation of this chapter.

3. All significant industrial users shall apply for an industrial waste permit within 30 days after the effective date of this provision. Other persons proposing to connect to the sewer system and determined by the director as requiring an industrial waste permit shall apply at least 90 days prior to commencing discharges to the public sewer. All permittees shall reapply for a new permit between 90 and 180 days prior to the expiration of the old permit.

4. All applications shall be in the form prescribed by the director. The application shall submit, in units and terms suitable for evaluation, all information requested in the application form any relevant supplemental information requested by the director.

5. An applicant or permittee shall notify the director of any new or increased contribution of pollutants or changes in the nature of pollutants not indicated in the permit application.

6. Industrial waste permits shall include, but not be limited to, the following terms:
   a. Prohibitions on discharge of certain materials, determined by the director.

   b. Notice of the general and specific prohibitions.

c. Notice of applicable national categorical pretreatment standards, effective under section (3).

d. Requirements for installation of treatment technology necessary to achieve compliance with the requirements of this chapter including, but not limited to, that which may be required by the director. (The design and installation of such technology shall be subject to the review, inspection, and approval of the director, and is also subject to the requirements of all applicable codes, ordinances, and laws).

e. Compliance schedules as per section (3).

f. Monitoring, sampling, record keeping, reporting, notice, control manhole, and measuring requirements specified.

g. Special requirements regarding unusual strength sewage as per agreement.

h. Requirements for additional payments.

i. Other conditions necessary to carry out the requirements of this division and applicable federal and state laws and regulations.

7. Permits are valid for five years from date of issuance of permit modification, whichever is later, unless revoked.

8. Permits are not transferable.

9. Permits may be modified for just cause upon 30 days notice. Just cause shall include, but not be limited to:

a. Promulgation of a new applicable national categorical pretreatment standard;

b. Changes in the requirements of this ordinance;

c. Changes in the processes used by the permittee or changes in discharge volume or character;

d. Changes in design or capability or receiving sewage treatment plant.

10. Permits may be revoked for just cause including, but not limited to, violation of any terms or conditions of the industrial waste permit, or any other violation of this ordinance; obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and false statements in any required report.

C. Authority to require compliance with federal categorical pretreatment standards. Upon promulgation of the federal categorical pretreatment standards (authorized by section 307 of the Clean Water Act) for a particular industrial subcategory, the federal standard, if more stringent than the limitations imposed under this ordinance, or in the absence of the applicable pretreatment limitations in this ordinance, shall become applicable. The director shall promptly notify all affected industrial users of the reporting requirements contained in 40 CFR 403.12 and shall require that such reports be signed by a duly authorized representative of the industrial user who certifies as to the completeness of the report.

The director shall have the authority to place all affected industrial users on compliance schedules, receive and analyze reports on progress toward compliance, and insure that all applicable industrial users install the technology necessary to achieve the required levels of treatment specified by the categorical pretreatment standard on or before the deadline specified in the standard. This authority shall also be applicable to those industrial users who discharge substances identified as prohibited discharges.

9-0204. **PROHIBITIONS AND LIMITATIONS ON WASTEWATER--DISCHARGES.**

A. Prohibitions on wastewater discharges. No person shall discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system any wastewater which contains the following:

1. Oils and grease.

a. Oil and grease concentrations or amounts from industrial facilities violating federal pretreatment standards.

b. Wastewater from industrial facilities containing floatable fats, wax, grease or oils in amounts which would cause interference or pass through the treatment process.

c. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts which would cause interference or pass through.

2. Explosive mixtures. Liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the sewerage facilities or to the operation of the system. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the sewer system, be more than 5% nor any single reading over 10% of the lower explosive limit (L.E.L.) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides. Pollutants which create a fire or explosion hazard in the wastewater treatment works, including, but not limited to, wastestreams with a closed cup flashpoint of less than 60E Centigrade (140E Fahrenheit) using the test methods specified in 40 CFR 261.21.

3. Noxious material. Noxious or malodorous solids, liquids or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into a sewer for its maintenance and repair. Pollutants which result in the presence of toxic gases, vapors, or fumes within the wastewater treatment works including sewers that may cause acute worker health and safety problems.

4. Improperly shredded garbage. Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers, with no particle greater than one-half inch in any dimension.

5. Radioactive wastes. Radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use and which will or may cause damage or hazards to

the sewerage facilities or personnel operating the system.

6. Solid or viscous wastes. Solid or viscous wastes which will or may cause obstruction to the flow in a sewer, or otherwise interfere with the proper operation of the wastewater treatment system. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.

7. Excessive discharge rate. Wastewaters at a flow rate or containing such concentrations or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities or flow during normal operation and that would cause a treatment process upset and subsequent loss of treatment efficiency. Any pollutant, including oxygen-demanding pollutants (e.g., BOD), released in a discharge at a flowrate and/or pollutant concentration which would cause interference with the wastewater treatment works.

8. Toxic substances. Any toxic substances in amounts exceeding standards promulgated by the administrator of the United States Environmental Protection Agency pursuant to section 307(a) of the Act, and chemical elements or compounds, phenols or other taste or odor-producing substances, or any other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the treatment system, or that will pass through the system.

9. Unpolluted waters. Any unpolluted water including, but not limited to, water from cooling systems or of stormwater origin, which will increase the hydraulic load on the treatment system.

10. Discolored material. Wastes with objectionable color not removable by the treatment process.

11. Corrosive wastes. Any waste which will cause corrosion or deterioration of the treatment system. Prohibited materials, include, but are not limited to, acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acidic products. Pollutants which will cause corrosive structural damage to the wastewater treatment system or works, but in no case discharges with pH lower than 5.0 unless the wastewater treatment works are specifically designed to accommodate such discharges.

a. Heat. No liquid or vapor should be discharged into any sewer so as to arrive as influent at the Fargo sewage treatment plant containing heat in amounts which will inhibit biological activity in the wastewater treatment system resulting in interference, but in no case heat in such quantities that the temperature at the Fargo sewage treatment plant exceeds 104E Fahrenheit (40E Celsius).

b. Limitations on wastewater discharges. No person shall discharge or convey, or permit or allow to be discharged or conveyed, to a public sewer any wastewater containing pollutants of such character or quantity that will:

i. Not be susceptible to treatment or interfere with the process or efficiency of the treatment system.

ii. Constitute a hazard to human or animal life, or to the stream or water course receiving the treatment plant effluent.

iii. Violate pretreatment standards.

iv. Cause the treatment plant to violate its NPDES permit or applicable receiving water standards.

c. Special agreements. Nothing in this section shall be construed as preventing any special agreement or arrangement between the City and any user of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable provided,

however, that said special agreements shall not waive any federal categorical pretreatment standards.

12. Any trucked or hauled pollutants, except at discharge point designated by the City of Harwood.

9-0205. **CONNECTIONS OUTSIDE CITY.**

A. Approval required. No sewer connection permit shall be issued after the effective date of this article to serve any property located outside the corporate limits of the City of Harwood, except with specific approval of the City Council. Such connections shall be authorized by resolution and shall be subject to such terms, conditions and fees as the Council finds necessary to appropriate.

9-0206. **PROTECTION FROM DAMAGE.**

A. Prosecution for damage to system. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities.

9-0207. **PENALTIES.**

A. Every person, firm or corporation violating an ordinance which is punishable as a Class B misdemeanor shall be punished by a fine not to exceed $1,000.00, or by imprisonment not to exceed 30 days, or by 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.

B. Costs. Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violations.

9-0208. **SAVINGS CLAUSE -- CONFLICT.** In the event that any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and articles shall not be affected and shall continue in full force and effect; all ordinances and parts of ordinances inconsistent or conflicting with any part of this

ordinance are hereby repealed to the extent of such inconsistency or conflict.

9-0209. **PROHIBITED CONNECTIONS TO SEWER SYSTEM - INSPECTION AND SURCHARGE AUTHORITY - WAIVER PROVISIONS.**

A. All dwellings, buildings and structures constructed after September 21, 1971, which require, because of infiltration of water into basements, crawl spaces and the like, a foundation drainage system shall have a permanently installed discharge line which, shall not at any time, discharge water into the sanitary sewer system except as hereinafter provided in 9-0209(E). A permanent installation shall be one in which the direction of flow cannot be altered and provides for year-round discharge to either the outside of the dwelling, building or structure, or is connected directly to the city storm sewer, or discharges to the curb and gutter.

B. Prior to June 1, 2001, all dwellings, buildings or structures constructed after September 21, 1971, having surface or ground water drains, including sump pumps, now connected and/or discharging into the sanitary sewer system shall disconnect and/or remove the same. Any disconnects or openings in the sanitary sewer shall be closed or repaired in an effective, workmanlike manner, as approved by the city engineer for utilities.

C. Authorized city personnel, or its designated representatives bearing proper credentials and identification, shall be permitted to enter all properties constructed after September 21, 1971, for the purposes of inspection and observation to identify prohibited discharges to the sanitary sewer system. Any person may furnish a certificate from a licensed plumber certifying that their property is in compliance with this section, in lieu of having the city inspect their property. Any person refusing to allow their property to be inspected (or failing to furnish a plumber's certificate in lieu thereof) within fourteen (14) days of the date city employees or their designated representatives are denied admittance to the property, shall immediately become subject to the surcharge penalty as required under 9-0209(D). Any person found to have violated this provision shall make the necessary changes to eliminate the discharge of surface or ground water into the sanitary sewer system and furnish proof of the

changes to the city within ninety (90) days. Each prohibited connection identified may be reinspected by the City, its designated representative or a licensed plumber, to confirm compliance.

D. A monthly surcharge penalty, established by resolution of the City Council, shall be imposed and added to the regular sewer billing on and after June 1, 2001, to property owners who are not in compliance with this section. The surcharge shall be added every month through December 2001 until the property is in compliance. The surcharge shall continue to be levied monthly, every year on properties not complying with this section. It is provided, however, that the surcharge shall not be charged unless and until a property has been inspected and found to be not in compliance, or if the property owner refuses to allow an inspection and fails to provide a plumber's certificate in lieu thereof as set forth in this section.

E. The City Engineer for utilities shall have the authority to grant exemptions from strict compliance with this section.

Exemptions may be granted in the form of seasonal waivers which would allow the property owner to temporarily discharge directly into the sanitary sewer system between the date of October 1 and March 31. The holder of a seasonal waiver shall allow a City employee or designated representative to certify that, prior to April 1 of each subsequent year, their discharge water connection has been removed from the sanitary sewer. Failure to provide such certification shall place the seasonal waiver holder in violation and subject to the surcharge penalty as required under 9-0209(D). Seasonal waiver requests shall be submitted on the official form provided by the City Engineer for utilities.

Exemptions may be granted in the form of non-seasonal waivers for a particular property owner who can demonstrate undo hardship because of unique or extenuating circumstances, including physical or handicap limitations. A non-seasonal waiver would allow the property owner to discharge directly into the sanitary sewer system without seasonal restrictions. The non-seasonal waiver request shall be submitted to the City Engineer for utilities in writing and, at a minimum, identify

the property for which the waiver is being requested, the name of the property owner/applicant, and a detailed description of the circumstances justifying the request.

F. Any person granted a seasonal waiver shall be charged an additional monthly fee on their utility bill to cover the cost of compliance inspections and the cost for treating the extra discharge water during the waiver period. The seasonal waiver amount shall be set by resolution of the City Council.

Any person granted a non-seasonal waiver shall be charged an additional monthly fee on their utility bill to cover the cost for treating the extra discharge water on a year-round basis. The non-seasonal waiver amount shall be set by resolution of the City Council.

G. If a seasonal waiver is granted, the owner of the property may place a pipe connecting the sump pump to the sanitary sewer, which must have a shutoff valve. City staff or its designated representative, on or around April 1 of each year, will inspect the system to verify that the valve is closed so no prohibited water is discharged into the sanitary sewer. By applying for the waiver, the owner has granted permission to the City staff or its representatives to inspect the connection at any time between April 1 and October 31 to verify compliance with this section. Such inspections must be made between 8:00 a.m. and 5:00 p.m., Monday through Friday, and only when a resident of the premises is on site. Failure to allow such an inspection or to allow City staff or its designated representatives entry for verification of compliance shall result in automatic revocation of the seasonal waiver and imposition of the surcharge penalty pursuant to 9-0209(D).

H. When a new structure is being constructed in the City of Harwood, if, at or prior to final inspection, City staff determines that the sump pump connection has been illegally connected to the sanitary sewer system, or that there is another connection or device or lack of a plug which allows surface run-off or ground water to enter into the sanitary sewer system, either permanently or temporarily, there shall be levied an administrative fine against the general contractor

for the structure thus found in violation. If, 24 hours after receiving written notice from the City, the general contractor has not remedied the situation so that no surface run-off or ground water can enter into the sanitary sewer system, there shall be an additional administrative penalty for each month such a violation exists. In addition, the building inspector shall not issue another building permit within the jurisdiction of the City of Harwood for that contractor until the violation has been remedied and any administrative penalty has been fully paid to the City. The administrative penalty shall be set by resolution of the City Council.

TITLE X.

BUSINESS LICENSES AND REGULATIONS

CHAPTERS:

10-01. Alcoholic Beverages.
10-02. Gambling.
10-03. Pawn Brokers.
10-04. Sunday Opening - Food Stores.
10-05. Tobacco Licensing.

CHAPTER 10-01

ALCOHOLIC BEVERAGES

SECTIONS:

10-0101. Definitions.
10-0102. License Required.
10-0103. Licenses - Regulations as to Classes - Fees.
10-0104. License - Qualifications.
10-0105. Liability Insurance Required of Licensees.
10-0106. License Application.
10-0107. Investigation of Applicant.
10-0108. Issuance, Renewal and Transfer of Licenses.
10-0109. License Fees - Disposition of Fees.
10-0110. Posting of Licenses.
10-0111. Licenses - Termination, Suspension and Revocation.
10-0112. Location of Licensed Alcoholic Beverage Establishments.
10-0113. Hours of Sale - Prohibition of Sales on Holidays.
10-0114. Restrictions on Sale, Service or Dispensing of Alcoholic Beverages.
10-0115. Delivery of Alcoholic Beverages.
10-0116. Rules for Possession of Alcoholic Beverage by a Licensee
10-0117. Licensed Premises - Requirements For.
10-0118. Inspection of Licensed Premises to be Allowed.
10-0119. Cabaret License.
10-0120. Application of Chapter.
10-0121. Penalty.
10-0122. Severability Clause.
10-0123. Special Permits for Sale of Alcoholic Beverages.

10-0101. **DEFINITIONS.** In this chapter unless the context or subject matter otherwise requires:

1. "Agent": A person or entity acting on behalf of the license holder or an employee of the license holder, but who is not an employee.

2. "Alcoholic Beverages": Any liquid intended for drinking by human beings which contains one-half of one percent or more of alcohol by volume. All alcoholic beverages shall be deemed intoxicating.

3. "Beer": Any malt beverage containing more than one-half of one percent of alcohol by volume.

4. "City": The City of Harwood.

5. "Club" or "lodge": Any corporation or association organized for civic, fraternal, social, or business purposes, or for the promotion of sports. Said club or lodge shall have at least one hundred (100) members at the time of the license application.

6. "Council": The City Council of the City of Harwood, North Dakota.

7. "Incompetent": Someone under a guardianship whom has been judged legally incompetent.

8. "Intoxicating Liquor" and "liquor": Any alcoholic beverage, except beer.

9. "Licensed Premises": The bar area, dining rooms, meeting rooms and all other areas or places alcoholic beverages are regularly or occasionally sold, served, dispensed, or consumed by patrons. In the alternative, any person applying for a license under the provision of this chapter may describe, depict or otherwise identify in this application for a license various areas or spaces which shall constitute the licensed premises. The Council, in its discretion, requires any applicant to so describe, depict or otherwise identify the licensed premises as a condition for the issuance of a license under the provisions of this chapter.

10. "Off Sale": The sale of alcoholic beverages in original packages for the consumption off or away from the premises where sold. This provision shall not prohibit the licensee from dispensing and the customer from consuming a free sample as defined by the laws of this state.

11. "On Sale": The sale of alcoholic beverages for consumption only on the licensed premises where sold.

12. "Package" and "Original Package": Any container or receptacle holding alcoholic beverages, when such container or receptacle is corked or sealed by the manufacturer thereof, and when the cork or seal has not been removed or broken prior to the sale of such package to the purchaser.

13. "Person(s)": Any individual, firm, corporation, association, club, partnership, society, or any other organization.

14. "Recreational Establishment": Any pool hall, bowling alley, arcade or similar establishment having facilities or devices designated to provide for the amusement or leisure activities of its patrons.

15. "Sale" and "sell": All manners or means of furnishing of alcoholic beverages, including the selling, exchange, disposition of, and keeping for sale of such alcoholic beverages.

16. "Wholesaler": Any person engaged in the sale and distribution of alcoholic beverages at wholesale to persons holding a retail license for the sale and distribution of alcoholic beverages within the State of North Dakota or in interstate commerce.

17. "Wine": The alcoholic beverage obtained by a fermentation of agricultural products containing natural or added sugar, or such beverage fortified with brandy and containing not more than 24% alcohol by volume.

10-0102. **LICENSE REQUIRED.** No person, as defined in Section 10-0101 of this chapter, shall sell, exchange, or keep for sale any alcoholic beverages, as defined in Section 10-0101 of this chapter, without first having obtained a license pursuant to the provisions of this chapter and posting said license in a conspicuous place or premises..

10-0103. **LICENSES - REGULATIONS AS TO CLASSES - FEES.**

1. Licenses authorizing the sale of alcoholic beverages within the City of Harwood shall be divided into the following classes:

   A. Wholesaler's License. The license fee for wholesaler's license shall be set by resolution by the City Council.

   B. Retail On and Off Premises Beer, Wine and Liquor License. The annual license fee for retail beer, wine and liquor on and off sale premises license shall be set by resolution by the City Council.

C. Retail Off Premises Beer, Wine and Liquor License. The annual license fee for retail beer, wine and liquor off sale premises license shall set by resolution by the City Council.

2. The licenses for the sale of alcoholic beverages set out above shall be in effect for a period of one year commencing January 1 of each year and terminating on December 31 of the same year. If an application is made for a license during the licensing year, the license that is granted shall only be for the unexpired portion of such year ending December 31, at which time an application for renewal of the license must be made. The license fee for the partial year shall be prorated so that it equals one-twelfth (1/12th) of the licensing fee set out above times the number of months the license will be in effect. The entire license fee for the portion of the year shall be paid at the time of the issuance of the license.

Source: Ord. 2007-3, Sec. 1 (2007).

3. If an application is for a new liquor license, or a transfer of a license, not a renewal of an existing license, in addition to the annual license fee set forth above, an initial application fee, payable to the City of Harwood, must accompany the license application fee. The amount of the initial application fee shall be twenty-five percent (25%) of the annual license fee set out above for the license or licenses for which application is being made. Such initial application fee shall not be refunded, whether or not a license is granted by the City, and the initial application fee shall not be prorated, even if the initial application is for a portion of a year.

10-0104. **LICENSE - QUALIFICATIONS.** No retail license for the sale of alcoholic beverages shall be issued to any applicant unless the following requirements are met:

1. Residence Requirement.

(a) If applicant is an individual, the applicant must be a legal and bona fide resident of the City of Harwood and the State of North Dakota.

(b) If the applicant is a partnership, a partner or partners owning at least 50 percent of the partnership must be residents of the City of Harwood.

(c) If applicant is a corporation, a shareholder or shareholders owning at least 50 percent of the corporation's outstanding stock, or a full-time managing agent designated in the license application who is an officer and shareholder of the corporation, must be a resident of the City of Harwood and the State of North Dakota.

Source: Ord. 2007-3, Sec. 2 (2007).

2. Age.

The applicant, and all partners, and all officers, directors and shareholders holding more than five percent of the outstanding stock of the corporation shall be at least 21 years of age.

3. Fitness.

The applicant must not be deemed by the City Council to be unfit to engage in the business for which the license is sought.

4. Owner of Business.

No license shall be issued to any person as the representative or agent of another, and the license may be issued only to the owner or owners of the business being conducted at the location sought to be licensed.

5. Taxes.

No license shall be issued, transferred or renewed for any location in which the real and/or personal property taxes are delinquent and unpaid.

6. Server Training Required: All licenses issued under the provisions of this Chapter of the Harwood ordinances are

required to send all managers and employees involved in the sales of alcoholic beverages at said licensed establishment to a server training course, as approved by the City of Harwood.

a. Persons successfully completing the approved class will receive a "server training certificate card," which shall remain with said individual wherever employed. the "server training certificate card" is not required to be in said person's possession during hours of employment, at a licensed establishment, provided the card can be produced within 24 hours.

b. The "server training certificate card" must be renewed every three years.

c. All new establishments are required, within90 days of opening, to provide the City of Harwood with a roster of managers and employees depicting the expiration date of their "server training certificate card."

d. Recently hired managers and employees not having in their possession a current "server training certificate card," must within 90 days of the employment start date, successfully complete an approved server training class.

e. All licensees are required to submit along with the license renewal applications, a complete roster of managers and employees involved in serving alcoholic beverages to the City of Harwood. Said roster is to include the expiration date of the respective individual's "server training certificate card."

Failure to comply with the above-referenced requirements may result in the delay of the liquor license renewal and/or suspension of said license until date of compliance.

A wholesaler's license may be issued to any person eligible therefor under the terms of the laws of the State of North Dakota,

or any amendments thereto, who shall be engaged in the business of selling alcoholic beverages to licensed retail dealers or in interstate commerce only, provided, that no license shall be granted to any wholesaler who shall, directly or indirectly own or control, or have any financial interest in the ownership, control or operation of a licensed retail on sale and off sale business.

10-0105. **LIABILITY INSURANCE REQUIRED OF LICENSEES.** Every person licensed under the authority of this chapter, other than wholesalers, shall deposit with the City Auditor, not later than thirty (30) days after a license is issued, proof of liability and liquor liability insurance (Dram Shop). Such insurance shall provide coverage for at least the minimum amounts as set by the City Council by resolution. The adequacy of any such insurance shall be determined by the governing body of the City.

10-0106. **LICENSE APPLICATION.** Any person desiring to obtain the issuance, transfer or renewal of a license for the sale of alcoholic beverages shall make and file an application for such license with the City Council, through the City Auditor. In the case of a renewal of the license, such application must be submitted at least twenty (20) days prior to the expiration date of the license. The application shall be made on a form approved by the Council and made available through the office of the City Auditor. In addition to the information supplied on the application form, the Council, the City Auditor, City Agent or his designee, may require such other information as they deem necessary in determining whether or not a license should be issued to the applicant. If a license is granted, the licensee shall have the affirmative duty of informing the City Auditor in writing within thirty (30) days of any changes in the facts supplied to the City in the application previously submitted.

10-0107. **INVESTIGATION OF APPLICANT.** The City Agent, or such other person as may be designated by the City Agent, shall investigate the facts stated in the application and the character, reputation, and fitness of the applicant, and shall report on said matters to the City Council.

For purposes of this section the fitness of the applicant includes all owners, partners, shareholders, officers and directors of the corporations as well as a managing agent if designated in the application form.

10-0108. **ISSUANCE, RENEWAL AND TRANSFER OF LICENSES.**

1. No license shall be issued, renewed or transferred without the approval of the Harwood City Council. A change in the location of the licensed premises shall be deemed to be a transfer.

2. If the application is for a new license, or a transfer of an existing license to a new location, then notice that the applicant has applied for a license to sell alcoholic beverages at a place designated in the application, and that the application will be acted upon by the City Council on a certain day and time, shall be published in a newspaper in the City at least ten (10) days before the date set for the hearing on the application. Such notice shall be signed by the City Auditor and the expense of its publication, in addition to the license fee, shall be paid by the applicant to the City Auditor before publication.

3. No new license, or a transfer of a license to a new location, shall be issued unless and until the applicant has proven, to the satisfaction of the governing body, that the following conditions have been met. Provided, however, that these conditions shall not apply to license renewals:

   a. That the premises to be licensed have a minimum of 3,000 sq. ft. of interior floor space available and devoted to the business for which the premises are licensed.

   b. That sufficient, well-lighted off-street parking will be available to the patrons of the establishment of the applicant.

   c. That the establishment in question will be a definite asset to the City.

   d. That the licensed premises have a separate entrance or entrances from any other business and have no interior connection by which customers may move directly from another business to the licensed premises. Provided, however, that this restriction will not apply to eating establishments, motels or hotels that apply for a liquor license as part of their operation.

Additional factors to be considered in the granting of a new license:

a. The proximity of other businesses licensed to sell alcoholic beverages.

b. Protests of neighboring property owners or occupants.

c. Interference with neighboring properties.

d. Public convenience necessity.

e. Suitability of premises for sale of alcoholic beverages.

f. Recommendations and reports of appropriate city officials, including the City Agent, Chief of the Fire Department, Building Inspector, and Health Officer.

g. Zoning regulations.

h. Proximity of schools, churches, funeral homes, public buildings or buildings used by and for minors.

10-0109. **LICENSE FEES - DISPOSITION OF FEES.** All license fees collected by the City Auditor shall be credited to the general fund of the City.

10-0110. **POSTING OF LICENSES.** Licenses issued to licensees shall be posted in a conspicuous place in that portion of the premises for which the license has been issued.

10-0111. **LICENSES - TERMINATION, SUSPENSION AND REVOCATION.** All licenses issued under the provisions of this chapter, unless otherwise specifically provided, shall terminate on June 30 following the date of issuance; provided however, that any license issued under the provisions of this chapter may, under certain circumstances, terminate automatically, or be terminated, suspended or revoked by the City Council.

1. Any license issued under the provisions of this chapter shall automatically terminate:

   (a) Upon the death of the licensee unless, upon application to the Council by the personal representative of the decedent, the Council shall

consent to the carrying on of such business by the personal representative. Said application must be submitted to the Council within thirty (30) days of the licensee's death.

(b) When the licensee, for any reason, ceases business at the licensed premises. Business shall be deemed to have ceased when no sale of alcoholic beverages occurs on the licensed premises for a period of at least thirty (30) consecutive business days; provided, however, upon written request of the licensee, the Council in its discretion may grant a period of up to sixty (60) additional days before business shall be deemed to have ceased.

(c) When any license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the licensed premises has terminated or been suspended or revoked.

2. The Council may, in its discretion, suspend or revoke for cause any license issued under the provisions of this chapter. The grounds for suspension or revocation shall, among others, include the following:

(a) The licensee has filed a Petition of Bankruptcy.

(b) An individual licensee, one of the partners in a partnership licensee, or one of the officers in a corporation licensee, or any individual designated in the application as manager of the licensed business is convicted of violating any of the provisions of this chapter.

(c) An individual licensee, one of the partners in a partnership licensee, or one of the officers, directors or shareholders in a corporation licensee, or any individual designated in the application as manager of the licensed business is convicted of any state or federal felony.

(d) The business of the licensee, at the location licensed, is conducted in such a manner as to be in violation of the health, sanitary or other regulations or ordinances of the City of Harwood.

(e) The licensee, having been given a conditional license pursuant to Section 10-0104 because of

failure to meet the residence requirements of this chapter, fails to have the required residency within the three (3) month period.

(f) If the licensee ceases to be a legal bona fide resident of the City of Harwood and the State of North Dakota as required in Section 10-0104.

(g) The licensee has made any false statement in his application for a license.

(h) If the licensee fails to notify the City Auditor in writing within thirty (30) days of any change in the facts supplied to the City in the application for its license.

3. The grounds enumerated in subsection 2 of this section shall not be deemed to be exclusive and any license issued under the provisions of this chapter may be suspended or revoked by the Council for any other reason deemed by the Council to be sufficient in order to promote the public health, safety, morals and general welfare of the people of the City of Harwood. When any license is suspended or revoked by the Council pursuant to the provisions of this section, or when the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

4. No license issued under the provisions of this chapter shall be suspended or revoked for cause by the Council without a public hearing. In the event that the Council intends to consider the suspension or revocation of any license for cause, the City Auditor shall notify the licensee in writing and inform the licensee of the reason for the hearing, and specify the time and place of the hearing. The notice, and any affidavits filed in support of the suspension or revocation shall be served in the same manner as provided by law with the service of the summons in the civil action, or by registered mail. No suspension or revocation hearing shall be held before the expiration of five (5) days (or longer period if required by State law) after the date of the service of the notice upon the licensee or the mailing of the notice by registered mail.

If, upon such hearing, it appears to the Council that sufficient cause exists for the suspension or revocation of the license issued pursuant to the provisions of this

chapter, the Council shall make its order suspending or revoking the license.

10-0112. **LOCATION OF LICENSED ALCOHOLIC BEVERAGE ESTABLISHMENTS.** No alcoholic beverage license shall be issued for any building, room or place within one hundred fifty (150) feet of any church, public or parochial school grounds, or synagogue. The distance to be measured in a straight line from the building in which said school or church is conducted to the principal public entrance of the place in which the liquor is dispensed, except in case of a church or synagogue where the governing body thereof gives the licensee written permission to locate within the said prescribed limits, and such written permission is approved and filed with the City Council. The foregoing shall not apply to lodges and clubs as defined herein. No license to sell liquor under the provisions of this chapter shall entitle the holder thereof to carry on such business at more than one location under any one license, and each license shall contain the legal description of the place where the holder thereof operates such business.

10-0113. **HOURS OF SALE - PROHIBITION OF SALES ON HOLIDAYS.**

1. Except as permitted by Section 10-0123 of the Harwood Ordinances, no license holder, its agents or employees, shall dispose or permit the consumption of alcoholic beverages on licenses premises between the hours of 2:00 a.m. and 12:00 noon on Sundays, between the hours of 10:00 p.m. on Sundays and 8:00 a.m. on Mondays, between the hours of 2:00 a.m. and 8:00 a.m. on all other days of the week, nor dispense or permit such consumption on Christmas Day, after 2:00 a.m. on Thanksgiving Day, or after 6:00 p.m. on Christmas Eve.

2. Those license holders who receive a Sunday sales permit by the City Council pursuant to Section 10-0123 of the Harwood City Ordinances may permit the sale and/or consumption of alcoholic beverages on licensed premises, or other premises set out in the permit, between the hours of 12:00 noon on Sunday and 2:00 a.m. on Monday, or pursuant to the hours set forth in the particular permit granted if more restrictive.

3. Nothing in this section shall be construed as permitting the sale or dispensing of intoxicating liquor when such sales are prohibited by state or federal law.

4. A person is guilty of an offense if he remains in an establishment licensed to sell alcoholic beverages at retail during hours or times when such establishment may not be lawfully open to the public, except that the

establishment owner or his employee may so remain for janitorial work, repair work, redecorating or bookkeeping. Any person violating the provisions of this section shall, upon conviction, be punished by a fine of Twenty Dollars ($20). Any police officer of the City is authorized to issue a municipal court summons to any person he finds in apparent violation of this ordinance.

5. Any owner, operator or employee of an establishment licensed to sell alcoholic beverages who knowingly permits and allows a person to remain in the licensed premises after closing hours or during hours when alcoholic beverages may not be sold, is guilty of an offense unless the person so remaining is regularly employed in janitorial, bookkeeping, repair, construction or redecorating work, and remains in the establishment only for the purpose of such work. Any person violating the provisions of this section shall, upon conviction, be punished by a fine of not to exceed Five Hundred Dollars ($500), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the court; the court to have power to suspend such sentence and to revoke the suspension thereof.

10-0114. **RESTRICTIONS ON SALE, SERVICE OR DISPENSING OF ALCOHOLIC BEVERAGES.**

1. No licensee, his agent or employee, shall sell, serve or dispense any alcoholic beverage to a person under 21 years of age; no licensee, his agent, or employee, shall permit any person under 21 years of age to be furnished with any alcoholic beverage upon the licensed premises.

2. No licensee, his agent or employee shall sell, serve or dispense, nor permit to be furnished with any alcoholic beverage upon the licensed premises, any habitual drunkard, an intoxicated person, a person under guardianship after written notice of such guardianship by the legal guardian and during the continuance of such guardianship.

3. No licensee, his agent or employee shall be permitted to sell to any person upon credit any intoxicating liquor.

4. No person under 21 years of age shall be permitted to enter any room of a licensed premises in which alcoholic beverages are sold, served or dispensed. Nor shall anyone under the age of 21 years be employed in any room or rooms on a licensed premises which alcoholic beverages

are sold on-sale, except as provided in subsection 5 of this section.

5. Any person under 21 years of age may remain in a restaurant where alcoholic beverages are sold if:

   a. the restaurant is separate from the room in which alcoholic beverages are opened or mixed;

   b. gross sales of food are at least equal to the gross sales of alcoholic beverages which are consumed in the dining area;

   c. employed by the restaurant as a food waiter/waitress, busboy/girl under the direct supervision of a person 21 or more years of age, and not engaged in the sale, dispensing, delivery or consumption of alcoholic beverage;

   d. the person is a law enforcement officer entering the premises in the performance of official duty; or

   e. the person is between the ages of 18 to 21 years of age and has been employed by the liquor licensee to work in the capacity of musicians under the direct supervision of a person 21 or more years of age.

Any person who is 19 years of age or older but under 21 years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person 21 or more years of age, but may not be engaged in mixing, dispensing, or consuming alcoholic beverages.

6. If a licensee owns or operates a recreational establishment which is open to persons under 21 years of age, the licensee shall designate, in his license application, an area to be used solely in its recreational capacity by persons under 21 years of age. No such licensee shall permit the sale, service, dispensing or consumption of alcoholic beverages in such designated area and no such licensee shall permit persons under 21 years of age to enter any area not so designated.

7. No off-premise liquor or beer licensee shall permit the opening or consumption of alcoholic beverages upon the licensed premises; provided, however, the licensee may permit the sampling of alcoholic beverages upon the licensed premises without charge to the consumer.

10-0115. **DELIVERY OF ALCOHOLIC BEVERAGES.** No licensed retail alcoholic beverage dealer, the officers, employees or agents in the City of Harwood shall deliver or shall cause to be delivered to any customer outside of the licensed premises, any alcohol or alcoholic beverages sold under the terms and provisions of this chapter, unless the package containing such liquor shall be securely wrapped and shall contain on the outside, in plain, legible writing, the name of the dealer selling the same and also the name and address of the purchaser.

No driver of any taxicab operating or driving the same in the City of Harwood shall at any time possess, carry or have in such taxicab any alcohol or alcoholic beverages of the kind and character referred to in this section, excepting only that such driver may accept for delivery to a customer from a licensed dealer, any package(s) as described above.

No owner, operator, officer, or employee or driver of any taxicab in the City of Harwood shall accept from any person, except a liquor dealer regularly licensed by Harwood, any order for the delivery of any such alcohol or alcoholic beverage as described above.

Any police or other peace officer of the City shall have the right to enter and search any taxicab, operating in the City under a license from said City, or elsewhere, at any time there may be a reason to believe or suspect that the driver of such vehicle is violating the provisions.

The violation of any of the provisions of this section by any licensed alcoholic beverage dealer, agents, officers or employees, the owner of any taxicab, or the driver thereof, shall be grounds for the revocation of the license issued for that purpose and where a driver of any taxicab is found guilty of violating the terms and provisions of this section, the license of the owner of such taxicab may also, in the discretion of the City Council, be revoked.

10-0116. **RULES FOR POSSESSION OF ALCOHOLIC BEVERAGE BY A LICENSEE.**

1. Possession of Unstamped Liquor Illegal. No alcohol or alcoholic beverages, as defined by the laws of the State of North Dakota, shall be permitted to be owned, held, or possessed upon any licensed premises, or by any person to whom a license has been issued unless the tax stamp, as provided by the laws of the State of North Dakota has been properly affixed thereto, and unless taxes on said alcohol and alcoholic beverages have been paid, and the possession of any container of any kind in which such alcohol or alcoholic beverage is found which does not

bear the proper stamps issued by the State of North Dakota shall be deemed to be illegal and a violation of this section.

2. Purchase to be from Licensed Wholesaler. No licensee shall purchase, have, or possess any alcohol or alcoholic beverages as defined by the laws of the State of North Dakota unless licensee has purchased the same from a wholesaler duly licensed pursuant to the provisions of the laws of the State of North Dakota.

3. Invoices to be Filed, Contents of. Each licensee shall keep on file all invoices covering purchases of such alcohol or alcoholic beverages, showing the name and license number of the wholesaler, and the name of the municipality issuing such wholesale license. Such invoices shall be retained in possession of the licensee and shall, at all times, be open to inspection by any police officer or peace officer in the State of North Dakota.

4. Records to be Kept. Each licensee under this chapter shall keep a book showing the kinds and quantities of all alcoholic beverages purchased by him, together with the name of the person from whom purchased, the license number of the wholesaler selling such alcoholic beverages to said licensee, and the name of the municipality issuing such wholesale license.

10-0117. **LICENSED PREMISES - REQUIREMENTS FOR.**

1. Every on-sale retail premise licensed for the sale of alcoholic beverages must be equipped with adequate and sufficient lavatories and toilets separately maintained for men and women and kept in a clean and sanitary condition.

2. Every on-sale licensee for the sale of alcoholic beverages shall equip his establishment with tables and chairs in sufficient numbers to accommodate his patrons.

3. Every licensee is hereby made responsible for the conduct of the place of business and is required to maintain order and sobriety in such place of business. No intoxicated person(s) shall be permitted to remain upon the premises licensed or to be served any alcoholic beverages by any licensee.

4. Every licensee of an off sale liquor license which has a drive-in window for service must provide sufficient lighting so as to remove any and all traffic hazards that

might arise as a result of the drive-in window and provide for motor vehicle ingress and egress to and from said facility without in any way impeding, hampering, delaying or jeopardizing the safe flow of motor vehicle traffic.

10-0118. **INSPECTION OF LICENSED PREMISES TO BE ALLOWED.** The licensee accepts the license privileged upon the condition, which need not elsewhere be expressed, that the City Council or the City Agent, may, at any time, enter upon the premises licensed for the purpose of inspection, or to determine whether the premises are being conducted in compliance with the ordinances of the City.

10-0119. **CABARET LICENSE.**

1. DEFINITIONS.

   (a) Entertainment - shall be defined for purposes of this Ordinance to mean all forms and types of performing or entertaining for patrons on licensed premises without regard as to whether such entertainment is provided by means of live performances or manually operated, electronic systems designed for stereophonic playback of prerecorded signals: provided, however, that entertainment shall not be deemed to include the use of any television, radio or coin operated music machine.

   (b) Live performances - shall be defined for the purpose of this Ordinance to mean any person who for consideration, monetary or otherwise, performs in person on a licensed premise as a singer, musician, dancer, comedian, model, or any other type of entertainer.

2. No licensee under this Chapter shall permit entertainment for more than one day a week any given week without first having obtained a cabaret license as hereinafter provided.

3. The license fee for cabaret license shall be $-0- per year.

4. The license fee set forth in subsection 3 of this section shall be for a period of one year from July 1 to June 30 and shall be payable in advance at the time of the issuance of the licensee and thereafter, on or before June 10 of each subsequent year for renewal of said license.

5. The application for cabaret license shall be made by the licensee on forms provided by the City Auditor's office of the City of Harwood. The granting of a cabaret license shall be subject to the approval of the Council and it may be suspended or revoked in conformance with procedures established under Section 10-0111.

6. No live performances are permitted on a licensed premise which contain any form of dancing. Such prohibition on dancing does not include the incidental movement or choreography of singers or musicians which are made in connection with their singing or playing of a musical instrument. This restriction applies to all licensed premises whether or not they have a cabaret license.

7. No live performances are permitted on a licensed premise which involve the removal of clothing, garments or any other costume. Such prohibition does not include the removal of headwear or footwear; or the incidental removal of a tie, suitcoat, sportcoat, jacket, sweater or similar outer garments. Incidental removal for purposes of this section shall mean the removal of a garment or article of clothing which is not a part of the act or performance. This restriction applies to all licensed premises whether or not they have a cabaret license.

8. No entertainment on a licensed premise shall contain:

   (a) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

   (b) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;

   (c) The actual or simulated displaying of the pubic hair, anus, vulva or genitals; or the nipples of a female.

   This restriction applies to all licensed premises whether or not they have a cabaret license.

9. A licensee shall have the duty and responsibility to make available for inspection by a City Agent an identification card, such as a driver's license, containing a photograph and the age of all entertainers or performers on the licensed premise. The licensee shall not permit a person to make a live performance on

the licensed premise if the licensee is not able to obtain the required identification from the performer.

10-0120. **APPLICATION OF CHAPTER.** This chapter shall apply to all territory within the corporate limits of the City and, as permitted by state law to such outlying contiguous territory without the corporate limits within which the City may exercise police jurisdiction, as defined by law.

10-0121. **PENALTY.** Any person, firm or corporation violating the terms of this chapter shall, upon conviction thereof, be punished by a fine not to exceed $500.00 or imprisonment not to exceed 30 days, or by both such fine and imprisonment, at the discretion of the Court. Provisions of Section 1-0807 shall also apply. Such a penalty should be in addition to the authority of the City Council to suspend or revoke a license pursuant to Section 10-0111.

10-0122. **SEVERABILITY CLAUSE.** If any section, subsection, sentence or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.

10-0123. **SPECIAL PERMITS FOR SALE OF ALCOHOLIC BEVERAGES.**

1. Authorization. The City Council shall have the authority to issue special permits for the sale of alcoholic beverages when authorized to do so by state law as provided in Sections 5-0201.1, 5-0205.1, 5-0205.2, or any other state statute now in effect, or as amended, or enacted in the future which provides authority for cities to issue special permits for the sale of alcoholic beverages.

2. Licenses and Special Conditions. Any person or entity seeking a permit as authorized by paragraph 1 of this section must apply to the City Council for such a permit. The City, in granting such a permit, shall have the authority to put additional conditions on the license over and above the conditions and requirements provided in state law, if the Council deems it desirable to do so.

3. License Fee. The City, by resolution, may provide a schedule for fees for such special permits, which fees shall not exceed the maximum permitted by state law.

4. Restrictions on License. Any special permits given pursuant to this section shall be subject to all of the provisions of Chapter 10-01 of the Revised Ordinances of 2006 of the City of Harwood, except where such provisions

are in conflict with the provisions of state law authorizing special permits.

5. Revocation of License. The special licenses authorized by this section may be suspended or revoked by the City for violations of the terms of this section, as well as any other provisions of Chapter 10-01. In addition, violation of the provisions of this section also subject a violator to suspension or revocation of any other license for the sale of alcoholic beverages issued by the City of Harwood pursuant to Section 10-0111.

CHAPTER 10-02

GAMBLING

SECTIONS:

10-0201. Games of Chance.
10-0202. Application for Local Gambling License or Site Authorization.
10-0203. Limitation on Site Authorizations.
10-0204. Limitation on Hours and Participation of Games of Chance.
10-0205. Availability of Records.
10-0206. Work Permits.
10-0207. Failure to Display Work Permit -- Revocation or Suspension.
10-0208. Failure to Obtain a Work Permit.
10-0209. Revocation of Site Authorization.
10-0210. Hearing Before City Council.
10-0211. Severability Clause.

10-0201. **GAMES OF CHANCE.** Notwithstanding any other provision of the ordinances of the City of Harwood to the contrary, it shall not be unlawful to play or conduct games of chance pursuant to Chapter 53-06.1 of the North Dakota Century Code, as that chapter may be amended from time to time, and any implementing rules and regulations of the Attorney General and guidelines established by the City of Harwood by ordinance or resolution.

10-0202. **APPLICATION FOR LOCAL GAMBLING LICENSE OR SITE AUTHORIZATION.** No person or entity shall conduct a game of chance as defined in Section 10-0201 without first having obtained a license or site approval as required by state law. Applications for local gaming licenses, or applications for site approval shall be made to the City Auditor of the City of Harwood. No site authorization nor gambling license shall be granted by the City of Harwood unless the applicant follows the procedures and pays the fees as set by the City by resolution, which resolution shall be on file with the City Auditor.

10-0203. **LIMITATION ON SITE AUTHORIZATIONS.** No site authorization for pull tabs, jars, punch boards, twenty-one, or sports pools shall be granted by the City except to premises having an on-sale liquor license from the City of Harwood. This section shall not repeal site authorizations in effect on the date this ordinance is adopted, nor shall it apply to renewals of site authorizations in effect on the date this ordinance is adopted. Provided, however, that the renewal of site authorizations which

would otherwise be prohibited by this section may not expand the type of gambling to be conducted at the site, nor the maximum number of black jack tables to be used at the site over the types of gambling and number of tables permitted by the site authorization in effect on the date of the adoption of this ordinance.

10-0204. **LIMITATION ON HOURS AND PARTICIPATION OF GAMES OF CHANCE.** A person under 21 years of age may not participate in the games of pull tabs, jars, punch boards, twenty-one, or sports pools. No games of chance shall be conducted in licensed liquor premises, or at premises for which site authorizations have been granted by the City of Harwood other than during the hours when alcoholic beverages may be dispensed in accordance with the applicable regulations of the State of North Dakota and the City of Harwood.

10-0205. **AVAILABILITY OF RECORDS.** The person or entity obtaining the site authorization shall make available to the City and/or the North Dakota Attorney General's office for inspection and audit any and all records relating to the expenses, proceeds, and distribution of the proceeds from the authorized site. Failure to do so upon reasonable notice shall be grounds for suspension or revocation of the site authorization.

10-0206. **WORK PERMITS.** All gaming employees at sites authorized to conduct games of chance under the Class A and Class B license provisions of the North Dakota charitable gambling laws for any form of gambling in Harwood shall be required to have a work permit. Gaming employees for purposes of this section shall be defined as dealers, overseers, pit bosses, bingo operators, pull tab operators, accountants, bookkeepers and the gaming committee directly connected with the operation and supervision of the card tables, tip jars and other gaming activities. The procedure and requirements for obtaining a work permit are as set out below:

1. The person applying for his or her work permit shall submit an application on a form provided by the City Auditor. The form shall include such information as the City may reasonably require with respect to the identity and personal history of the applicant. The truthfulness of the information supplied by the applicant shall be sworn by the applicant under oath in writing. The application shall be accompanied by the fingerprints and a recent photograph of the applicant meeting the specifications of the City.

2. The applicant shall accompany his application with a non-refundable fee in the amount of $20.00. The license shall only permit the person to be a gaming employee

within the City of Harwood for a particular charitable organization. If the applicant desires to work for a different charitable organization within the City of Harwood, the applicant must apply for another work permit. The cost for a subsequent permit whether as a result of losing the first permit, or changing the charitable organization for which a person is employed shall be accompanied with a non-refundable fee in the amount of $5.00. The applicant for a subsequent permit shall not have to complete another initial application form. However, the person seeking a subsequent permit to work for a different charity shall fill out a form listing the name of the charity by which he/she was formerly employed, the name of the new charity with whom he/she is going to be employed, and the reason for his/her change of employment. If he/she was discharged or allowed to resign, the applicable facts shall be listed on said form.

3. The application for a work permit shall be submitted to the City Auditor, who may request any law enforcement agency to review the same. The City Auditor shall issue or deny the work permit not more than thirty (30) days after the applicant has submitted to the City a completed application form accompanied with the required photograph, fingerprints and application fee. The City shall not issue a work permit to any person:

   (a) Who is under the age of twenty-one (21);

   (b) Who submits false information on his/her application;

   (c) Who has been convicted of a felony within the last two (2) years;

   (d) Who has been convicted of any misdemeanor involving theft of property or services, shoplifting or related criminal offense within the last two (2) years;

   (e) Who is determined by the Attorney General of the State of North Dakota to have participated in organized crime or unlawful gambling;

   (f) Who is otherwise determined by the gambling enforcement officer to not be a fit and proper person to engage in such work pursuant to Section 53-06.1-06(10)(b) of the North Dakota Century Code.

4. A person who has been denied a work permit pursuant to this section shall have the right to appeal the denial to the Harwood City Council by filing a written notice of appeal with the Harwood City Auditor within ten (10) days after the receipt of the denial of the work permit. Upon failure to file such notice within the ten (10) day period, the action of the gambling enforcement officer denying such work permit shall be final and conclusive. The gambling enforcement officer upon denial of a work permit shall give the applicant written notice of the denial setting forth the reason for the denial and the appeal procedure.

5. All gaming employees required to have a work permit shall be required to conspicuously display it about his/her person while engaged in gaming activities.

6. No person shall be required to have or display a work permit prior to _____, 2006.

10-0207. **FAILURE TO DISPLAY WORK PERMIT - REVOCATION OR SUSPENSION.** Failure to display the work permit as required by this Chapter shall be cause for revocation or suspension of a gaming employee's work permit. The gambling enforcement officer shall notify the person of the revocation or suspension of his permit for violation of this section which revocation shall go into effect ten (10) days after receipt of the notice. The notice shall also state that the employee has ten (10) days from the receipt of the notice to file a written appeal with the City Auditor requesting a hearing before the City Council.

10-0208. **FAILURE TO OBTAIN A WORK PERMIT.** It shall be unlawful for a person to work as a gaming employee without obtaining a proper work permit as required by this chapter, or to work as a gaming employee after such work permit has been revoked or is under suspension pursuant to this chapter.

10-0209. **REVOCATION OF SITE AUTHORIZATION.** It shall be the responsibility of the holder of a site authorization not to allow persons to work as gaming employees at their site who do not have the proper work permit. In addition, it shall be the responsibility of the holder of the site authorization to require all its gambling employees to display their work permit as required by this chapter. The gambling enforcement officer shall notify the City Council if the holder of a site authorization is not complying with the provisions of this section, and such noncompliance shall be grounds for suspension or revocation of the site authorization. In addition, the gambling enforcement officer shall notify the City Council if the holder of the site authorization is violating any of the terms of the site authorization issued by the City of Harwood,

or any applicable state law or regulations of the Attorney General. Such noncompliance with the provisions of the site authorization, state law, or regulations of the Attorney General shall also be grounds for suspension or revocation of the site authorization.

10-0210. **HEARING BEFORE CITY COUNCIL.** Any person who is denied a work permit, or whose work permit is suspended or revoked, and who files a written appeal within the ten (10) day period shall be entitled to a hearing before the City Council to review the denial, suspension, or revocation. The hearing shall be held at the next regularly scheduled meeting of the City Council after the written appeal has been filed with the City Auditor. A sound recording shall be kept of the hearing, and after the completion of the hearing the City Council shall prepare its findings in writing.

The City Auditor upon receipt of notice from the gambling enforcement officer that there are grounds to suspend or revoke a site authorization, shall notify the holder of the site authorization of the date at which the City Council will have a hearing to determine whether or not to suspend or revoke the site authorization. There shall be a sound recording of such hearing, and after the completion of the hearing the City Council shall make its findings in writing.

10-0211. **SEVERABILITY CLAUSE.** The invalidity of any section, clause, sentence or any provisions of this ordinance shall not affect the validity of any part of this ordinance which can be given affect without such invalid part or parts.

CHAPTER 10-03

PAWNBROKERS

SECTIONS:

10-0301. "Pawnbroker" Defined.
10-0302. License Required.
10-0303. Licenses - Fees For.
10-0304. Bond - Conditions Of.
10-0305. Licenses - Expiration Of.
10-0306. Licenses - Revocation Of.
10-0307. City Auditor to Keep Register of Licenses.
10-0308. Record of Goods Pawned or Consigned -- Duty of Licensee.
10-0309. Record of Goods Pawned or Consigned -- Copy to Chief of Police.
10-0310. Description of Property When Necessary.
10-0311. Licensees Not to Sell Property Within Forty-eight Hours.
10-0312. Licensees -- Notice Not to Sell Property -- Sale or Redemption of Property Not Allowed.
10-0313. Transactions with Minors -- Consent of Parents Required.
10-0314. Severability Clause.
10-0315. Penalty.

10-0301. **"PAWNBROKER" DEFINED.** As used in this chapter, unless the context or subject matter otherwise requires, the term "pawnbroker" shall mean any person who:

1. Loans money on deposit or pledge of personal property, or other valuable thing;

2. Deals in the purchasing of personal property or other valuable thing, on condition of selling the same back again at a stipulated price; or

3. Loans money, secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.

10-0302. **LICENSE REQUIRED.** Every person before engaging in the business of pawnbroker, as defined in Section 10-0301, or dealer in secondhand goods in the city shall obtain from the City a license so to do.

10-0303. **LICENSES - FEES FOR.** Every pawnbroker, and every dealer in secondhand goods, before commencing business shall pay

into the City treasury the required fee which shall be established by resolution of the City Council.

10-0304. **BOND - CONDITIONS OF.** Before the issuance of a license by the City Auditor to any person as a pawnbroker or dealer in secondhand goods, the person applying for said license shall execute a bond to the City of Harwood in a sum set by the City Council by resolution with sufficient sureties, to be approved by the City Attorney, conditioned that the said applicant will, in every particular, conform to the requirements of this chapter and with the requirements of any law or ordinance which may hereafter be passed concerning pawnbrokers and secondhand dealers.

10-0305. **LICENSES - EXPIRATION OF.** Each license granted and issued under this chapter shall expire at the expiration of one year next following the granting and issuing of the same, unless sooner revoked as hereinafter provided.

10-0306. **LICENSES - REVOCATION OF.** Every license issued under the provisions of this chapter shall be issued upon the distinct understanding that such license may be revoked by the City Council at any time, or by the court upon the conviction of the holder of a violation of this chapter. If the person so convicted shall have a license under the provisions of this chapter and said license is revoked, a new license shall not be issued to the same person within six months thereafter, except by consent of four-fifths of the City Council.

10-0307. **CITY AUDITOR TO KEEP REGISTER OF LICENSES.** The City Auditor shall keep a register of all the licenses granted under this chapter in which he shall record the name of the person licensed, the time of issuing the license, and the place of business of such person.

10-0308. **RECORD OF GOODS PAWNED OR CONSIGNED -- DUTY OF LICENSEE.** Every person who shall be engaged in the business of pawnbroker as defined in Section 10-0301 or dealer in secondhand goods shall keep a book in which shall be clearly written in ink at the time of each loan, purchase, or consignment an accurate account or description, in the English language, of the goods, articles, or other things pawned, pledged, received, deposited, purchased, or placed on consignment, the amount of money loaned or paid therefor, the time of the receipt of the same, the name, residence, and description of the person pawning, pledging, selling, or consigning the same, which book, as well as the article pawned, purchased, or consigned, shall, at all reasonable times, be open to the inspection of the City Council, the police commissioner, the city attorney, City Auditor, or any member of the police force.

10-0309. **RECORD OF GOODS PAWNED OR CONSIGNED -- COPY TO CITY.** It shall be the duty of every pawnbroker or dealer in secondhand goods to make out and deliver to the City Auditor or Agent designated by the City Council by resolution, every day before the hour of 12:00 Noon, a legible and correct copy from the book required to be kept in Section 10-0308 of all personal property or other valuable things received, deposited, purchased, or placed on consignment during the preceding day, together with the time when received, deposited, purchased, or consigned, a description of the person or persons and an impression of the right thumbprint of the person or persons by whom such articles were left in pledge or from whom the same were purchased or taken on consignment.

Should the right thumb be amputated or crippled then the left thumb may be used and the copy of the print should be so marked.

10-0310. **DESCRIPTION OF PROPERTY WHEN NECESSARY.** No person shall be required to furnish the description of any property purchased from private residences, manufacturers, or wholesale dealers having an established place of business or of goods purchased at open sale from any bankrupt stock or from any other person doing business and having an established place of business in the City. Such goods, however, must be accompanied by a bill of sale or other evidence of open or legitimate purchase and must be shown to the City Council, the police commissioner, the city attorney, City Auditor, or any member of the police force when demanded.

10-0311. **LICENSEES NOT TO SELL PROPERTY WITHIN FORTY-EIGHT HOURS.** No personal property received on deposit or purchased by any pawnbroker or dealer in secondhand goods shall be sold or permitted to be redeemed from the place of business of such person for the space of forty-eight hours after the copy and statement required to be delivered to the City Auditor or Agent designated by the City Council by resolution shall have been received as required by Section 10-0309.

10-0312. **LICENSEES--NOTICE NOT TO SELL PROPERTY--SALE OR REDEMPTION OF PROPERTY NOT ALLOWED.** Whenever the City Auditor or Agent designated by the City Council by resolution shall notify any dealer or dealers not to sell any property received on deposit or purchased by them or permit the same to be redeemed, such property shall not be sold or permitted to be redeemed until such time as may be determined by the City Agent who required them to be held.

10-0313. **TRANSACTIONS WITH MINORS -- CONSENT OF PARENTS REQUIRED.** No person granted a license under the provisions of this chapter shall purchase or receive any article or thing of value from, or transact any business as provided herein with, any person

who has not reached the age of eighteen years, without the written consent of such minor's parent or guardian.

10-0314. **SEVERABILITY CLAUSE.** The invalidity of any section, clause, sentence or any provisions of this ordinance shall not affect the validity of any part of this ordinance which can be given effect without such invalid part or parts.

10-0315. **SEVERABILITY CLAUSE.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

CHAPTER 10-04

SUNDAY OPENING - FOOD STORES

SECTIONS:

10-0401. Opening Food Stores on Sunday.

10-0401. **OPENING FOOD STORES ON SUNDAY.** Food stores may be operated on Sunday as provided in Subsection 30 of Section 12.1-30-03 of the North Dakota Century Code, without limitation as to the number of employees which may work at any one time on a Sunday.

CHAPTER 10-05

TOBACCO LICENSING

SECTIONS:

10-0501. Definitions.
10-0502. License Required.
10-0503. Prohibited Sales.
10-0504. Administrative Remedies.
10-0505. Criminal Penalties.
10-0506. False Certification of Training Program

10-0501. **DEFINITIONS.**

1. APPROVED TRAINING PROGRAM. A program instituted by store owners for all employees who may, in their course of employment, sell tobacco products. The program will be approved by the City Council or its Agent, as set forth by resolution of the Council, concerning the sale of tobacco products, and the owner of the licensed entity must provide certification to the City Auditor, or other City Agent, as set forth by the City Council by resolution, that they have given the approved training to all current employees, and certify that they will give new employees the same training program prior to them selling any tobacco products. All licensees, at least once each year, must go through the approved training program with all employees and re-certify that they have done so.

2. INDIVIDUALLY-PACKAGED TOBACCO PRODUCTS. Any package containing only one individually-wrapped tobacco product. This definition includes, but is not limited to, single packs of cigarettes, single bags of tobacco for rolling, and individual cans of tobacco for chewing or sniffing.

3. PROBATIONARY PERIOD. A period of 12 months for a violation which is not within any period of probation already established by a violation of any of this section, which 12 months shall be defined as commencing on the date of the said first offense and shall extend for 12 consecutive months thereafter. If any subsequent offenses occur within the said 12-month period, the probationary period for any such subsequent offense shall extend for either the same 12 consecutive months from the date of the first offense, as described above, or for a period of 6 months from the date of the subsequent offense, whichever period would expire later.

For purposes of this section, an offense is deemed to have occurred when the offense is committed, and not the date of judgment or conviction.

4. SELF-SERVICE MERCHANDISING. Any open display of tobacco products to which the public has access without the intervention of an employee of the retail establishment.

5. TOBACCO PRODUCTS. Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.

6. VENDING MACHINE. Any mechanical, electric, or electronic device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco products.

10-0502. **LICENSE REQUIRED.** No person or entity shall directly or indirectly, or by means of any device, keep for retail sale, sell at retail, or otherwise dispose of any tobacco products within the City of Harwood without a City of Harwood tobacco dealer's license. Any person or entity that has a state license for the sale of tobacco issued pursuant to Chapter 57-36 of the North Dakota Century Code shall automatically be deemed to have a license issued by the City of Harwood for the sale of tobacco products without the need for an application to the City or any action of the City of Harwood. As long as the person or entity has a state license issued under Chapter 57-36 for the sale of tobacco products, they shall be deemed to have a license from the City of Harwood for the sale of tobacco products, unless and until the City license is suspended or revoked pursuant to this chapter. There shall be no fee for the municipal license.

10-0503. **PROHIBITED SALES.**

1. No person or entity shall sell, offer for sale, give away or deliver any tobacco product to any person under the age of eighteen (18) years.

2. No person shall sell or dispense any tobacco product through the use of a vending machine except as follows:

   a. A vending machine may be used to dispense tobacco products in an area within a factory, business, office or other place not open to the general public or to which persons under eighteen (18) years of age are not generally permitted access.

   b. A vending machine may be used to dispense tobacco products on the premises of a licensed on-sale or off-sale intoxicating liquor establishment,

including club licenses. Provided, however, that if an on-sale licensed premises is also a restaurant, a vending machine located in a portion of the premises in which minors are allowed must be operable only by activation of an electronic switch operated by an employee of the establishment before each sale, or by insertion of tokens provided by an employee of the establishment before each sale.

10-0504. **ADMINISTRATIVE REMEDIES.**

1. ADMINISTRATIVE FINE, SUSPENSION, OR REVOCATION. Any violation of the City's regulations relating to the issuance of tobacco products' license or of any conditions/restrictions attached to the issuance of such license shall be cause for the imposition of an administrative fine, license suspension, and/or license revocation.

   If the violation relates to the sale of tobacco products to minors by a licensee or licensee's employees, the following administrative suspensions, or revocations shall be imposed:

   a. The first such violation shall subject licensee to a written warning.

   b. The second violation within the probationary period shall subject licensee to a 3-day suspension of the license.

   c. The third violation within the probationary period shall subject licensee to a 10-day suspension of the license.

   d. Subsequent violations within the probationary period shall subject licensee to a 30-day license suspension.

   e. If any sale of tobacco products occurs on licensee's premises during a period of suspension, the license shall be suspended for the full probationary period.

   f. For purposes of establishing the number of offenses committed by a licensee, the licensee is deemed to have committed only one offense during any 24-hour day.

2. ADMINISTRATIVE FINE, SUSPENSION OR REVOCATION IF LICENSEE HAS CERTIFIED TO AN APPROVED TRAINING PROGRAM. Any violation of the City's regulations relating to the issuance of tobacco products' license or of any conditions/restrictions attached to the issuance of such license shall be cause for the imposition of an administrative fine, license suspension, and/or license revocation.

   If the violation relates to the sale of tobacco products to minors by a licensee or licensee's employees, the following administrative suspensions or revocations shall be imposed:

   a. The first violation shall subject licensee to a written warning.

   b. The second violation within the probationary period shall subject licensee to a $250 administrative fine.

   c. The third violation within the probationary period shall subject licensee to a $250 administrative fine.

   d. The fourth violation within the probationary period shall subject licensee to a three-day suspension of the license.

   e. The fifth violation within the probationary period shall subject licensee to a ten-day suspension of the license.

   f. Subsequent violations within the probationary period shall subject licensee to a 30-day license suspension.

   g. If any sale of tobacco products occurs on licensee's premises during a period of suspension, the license shall be suspended for the full probationary period.

   h. For purposes of establishing the number of offenses committed by a licensee, the licensee is deemed to have committed only one offense during any 24-hour day.

3. ADMINISTRATIVE HEARING/WAIVER. Upon receipt of information indicating that a license violation has occurred, the City Auditor or his designee shall send a

license violation notice to licensee by certified mail. The license violation notice shall indicate the nature of the violation and whether such violation will result in an administrative fine, license suspension, or license revocation.

If the proposed disposition includes a license suspension, revocation, or fine, the notice shall also indicate that licensee has the option of requesting a hearing before the City Council prior to the license suspension, revocation, or imposition of fine, or waiving such hearing and accepting the disposition described in the license violation notice. The licensee shall file a written request for a hearing within ten (10) days of the date specified in the license violation notice, or licensee shall be deemed to have waived its right to a hearing. Upon receipt of a hearing request, the City Auditor or his designee shall schedule a hearing before the City Council at the earliest opportunity and shall send a hearing notice to licensee by certified mail.

4. CLERK PENALTIES. Any employee of a license holder who is in violation of the restriction attached to a tobacco product license shall be subject to an administrative fine of Fifty and no/100 Dollars ($50.00).

SECTION 10-0505. **CRIMINAL PENALTY.**

1. PENALTY. Any person, firm or corporation violating the terms of this chapter shall, upon conviction thereof, be punished by a fine not to exceed $500.00 or imprisonment not to exceed 30 days, or by both such fine and imprisonment, at the discretion of the Court. Provisions of Section 1-0807 shall also apply. Such a penalty should be in addition to the authority of the City Council to suspend or revoke a license pursuant to Section 10-0504. A licensee who has certified to the City that they have an approved training program for all employees shall not be subject to criminal penalty until the fourth violation within a probationary period.

2. IMMUNITY CLAUSE. A person under eighteen (18) years of age who purchases or attempts to purchase tobacco-related products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes which have been approved by the City Auditor or his designee shall not be subject to a criminal penalty.

10-0506. **FALSE CERTIFICATION OF TRAINING PROGRAM.**

1. Any licensee who falsely certifies that he has given an approved training program to all current employees but in fact has not done so, shall be subject to a criminal penalty set forth in Section 10-0505. Any licensee who certifies that he will give an approved training program to all future employees prior to them selling tobacco products and does not do so shall be guilty of an offense punishable under Section 10-0505.

TITLE XI.

ANIMALS

CHAPTERS:

11-01. Domestic Fowl, Farm Animals and Vicious Animals.
11-02. Dogs and Cats.

CHAPTER 11-01

DOMESTIC FOWL, FARM ANIMALS AND VICIOUS ANIMALS

SECTIONS:

11-0101. Unlawful to Allow Domestic Fowl and Farm Animals to Run at Large in City.
11-0102. Unlawful to Keep Domestic Fowl and Farm Animals Near House.
11-0103. Vicious Animals.

11-0101. **UNLAWFUL TO ALLOW DOMESTIC FOWL AND FARM ANIMALS TO RUN AT LARGE IN CITY.** It shall be unlawful for the owners, keepers and custodians of chickens, ducks, geese or other domestic fowls, horses, cattle, sheep, swine or goats to permit, suffer or allow the same to run at large within limits of the City of Harwood.

11-0102. **UNLAWFUL TO KEEP DOMESTIC FOWL AND FARM ANIMALS NEAR HOUSE.** No chickens, ducks, geese or other domestic fowls, horses, cattle, sheep, swine or goats shall be kept within an enclosure within the City limits of the City of Harwood at a distance less than seventy-five (75) feet from any dwelling house, without the written consent of the owner or tenant of said dwelling.

11-0103. **VICIOUS ANIMALS.** No person or persons in the City, being the owner of, or keeper of, any dangerous, vicious, or unruly animal shall not suffer the same to run at large. For purposes of this section, the words "owner," "running at large," and "suffer" shall be defined as in Section 11-0203 of the ordinances of the City of Harwood.

CHAPTER 11-02

DOGS AND CATS

SECTIONS:

11-0201. Dogs or Cats Running at Large Declared a Nuisance.
11-0202. Dogs or Cats Running at Large Prohibited.
11-0203. Definitions of Terms.
11-0204. License and Registration Required.
11-0205. Term of License.
11-0206. Impounding Dog or Cat Running at Large.
11-0207. Impounded Animals -- Notice to Owner and Redemption.
11-0208. Impounded Animals -- Disposition of Unclaimed or Infected Dogs and Cats.
11-0209. Animal Kennels and Shelters.
11-0210. Dogs and Cats Having Fierce, Dangerous or Vicious Propensities.
11-0211. Habitually Barking, Crying or Howling Dog or Cat Declared Public Nuisance.
11-0212. Habitually Barking, Crying or Howling Dog or Cat - Procedure for Complaint.
11-0213. Collection of Animal Solid Waste on Public Property.

11-0201. **DOGS OR CATS RUNNING AT LARGE DECLARED A NUISANCE.** All dogs or cats running at large within the limits of the City of Harwood contrary to the provisions of this chapter are hereby declared a nuisance.

11-0202. **DOGS OR CATS RUNNING AT LARGE PROHIBITED.** Any person who is the owner or has in his possession any dog or dogs or cat, male or female, shall not suffer the same to run at large, contrary to the provisions of this chapter, within the City of Harwood.

11-0203. **DEFINITIONS OF TERMS.** As used in this chapter, unless the context otherwise indicates, (a) "owner" means any person, firm, association or corporation owning, keeping, or harboring a dog or cat or both; (b) "running at large" means not on the premises of the owner, and not under the control of the owner or keeper, or a member of his immediate family, either by a leash, cord, or chain; and (c) "suffer" means without regard to the intent of the owner and is intended to create a strict liability offense.

11-0204. **LICENSE AND REGISTRATION REQUIRED.**

1. All dogs and cats kept or maintained in the City shall be licensed and registered if over six (6) months of age on or before the 1st day of January of each calendar year. Dog and cat licenses may be issued by the City Auditor or such other person as may be designated by the City Council or by licensed veterinarians designated by the City Auditor upon payment of an annual license fee as set forth herein. The owner, at the time of application, shall provide information in the form and manner as required by the City Auditor. No license may be issued unless a dog or cat has been inoculated for rabies within twenty-four (24) months preceding the application, Provided, however, that if the prior inoculation was within twenty (20) weeks of birth, an inoculation will be required within twelve (12) months of the first inoculation. The licensing provision of the section shall not apply to dogs or cats brought into the City for the purpose of participation in any dog or cat show, nor to "seeing-eye" dogs or dogs properly trained to assist blind or otherwise disabled persons when such dogs are actually kept for use by blind or otherwise disabled persons for the purpose of aiding them in going from place to place or otherwise in their daily activities.

2. The fees for obtaining a three-year license for a dog or cat, as referenced above, shall be as follows:

   A. For each and every of the first three dogs and the first three cats kept or maintained at the same residence, the license fee shall be Three and no/100 Dollars ($3.00) for each neutered dog or cat (whether male or female); and Three and no/100 Dollars ($2.00) for each un-neutered dog or cat (whether male of female); and

   B. For each and every neutered or un-neutered dog or cat kept or maintained at the same residence over and above the first three dogs and the first three cats as identified in subpart A above, the license fee shall be One Hundred and no/100 Dollars ($100.00) for each dog or cat.

3. The owner or possessor of each dog or cat shall cause a collar to be placed on the neck of the dog or cat, so licensed, with a shield furnished by the City indicating the number of the license and the year of the license.

This shield shall be attached at all times while the dog or cat is outdoors within the City limits.

4. Failure to license a dog or cat, as required in section 2B, shall be punishable as an infraction, and shall carry a minimum penalty of at least a fine of One Hundred and no/100 Dollars ($100.00) or ten (10) hours of community service.

11-0205. **TERM OF LICENSE.** The license herein provided for shall be in force from the date thereof until the 1st day of January thereafter.

11-0206. **IMPOUNDING DOG OR CAT RUNNING AT LARGE.** If any dog or cat, male or female, licensed or unlicensed, shall be found running at large, said dog or cat shall be impounded as hereinafter provided.

11-0207. **IMPOUNDED ANIMALS -- NOTICE TO OWNER AND REDEMPTION.** Not later than two days after the impounding of any dog or cat, the owner, if known, shall be notified. The owner of any dog or cat so impounded may reclaim such animal upon payment of the license fee, if unpaid, the costs of impoundment and maintenance, all costs incurred in giving any needed rabies inoculations, together with an administrative penalty in the amount approved by resolution of the City Council.

11-0208. **IMPOUNDED ANIMALS -- DISPOSITION OF UNCLAIMED OR INFECTED DOGS AND CATS.** It shall be the duty of the designated agent of the City to keep all dogs and cats so impounded for a period of three (3) days. If at the expiration of three (3) days from the date of notice to the owner such dog or cat shall not have been redeemed, it may be destroyed; any unlicensed dog or cat required by law to be licensed or any dog or cat which appears to be suffering from rabies or to be affected with another dangerous disease shall not be released but may be forthwith destroyed.

11-0209. **ANIMAL KENNELS AND SHELTERS.**

1. No animal kennel or shelter shall be permitted in a residentially-zoned area within the City nor within 300 feet of a residentially-zoned area or any existing actual residence. Provided further that if the animal kennel or shelter involves the temporary or permanent outside housing or keeping of animals, that written permission must first be obtained from all owners within 300 feet of the animal kennel or shelter.

2. For purposes of this section, the following definitions shall apply:

(a) Animal kennel - is a licensed or unlicensed facility, public or private, engaged in the business of breeding, buying, selling, or boarding animals.

(b) Animal shelter - is a licensed or unlicensed facility, public or private, used to confine, keep or house at any one time more than one animal seized, lost, abandoned, or given over by owners, which animals are not intended to be "permanently owned and maintained" at the facility by the owner of the facility.

(c) Permanently owned and maintained - shall mean the person housing or keeping an animal shall have the intent of permanently keeping and owning the animal, and in cases of dogs and cats, having the animals properly licensed and maintained pursuant to the provisions of Chapter 11 of the revised ordinances of the City of Harwood.

11-0210. **DOGS AND CATS HAVING FIERCE, DANGEROUS OR VICIOUS PROPENSITIES.** The owner of any dangerous, fierce, or vicious dog or cat which shall have bitten any person shall be guilty of an offense. If any dangerous, fierce, or vicious dog or cat shall be found running at large and cannot be safely taken up and impounded, such dog or cat may be slain by any policeman.

11-0211. **HABITUALLY BARKING, CRYING OR HOWLING DOG OR CAT DECLARED PUBLIC NUISANCE.** No person shall keep or harbor any dog or cat which habitually barks, cries or howls. Any such animals which habitually bark, cry or howl are hereby declared to be a public nuisance.

11-0212. **HABITUALLY BARKING, CRYING OR HOWLING DOG OR CAT - PROCEDURE FOR COMPLAINT.** Any person desiring to sign a complaint against the owner of a habitually barking, crying or howling dog or cat must contact the City Auditor or other person designated by the City Council and state his or her name, address, and facts supporting the alleged nuisance. The City, upon receipt of a sufficient complaint, shall then notify the person owning, harboring, or keeping the animal that a complaint has been received and that such nuisance must be abated within forty-eight (48) hours, and remain abated for a period of two (2) months. Notice shall be sufficient for purposes of this section if the alleged violator is informed orally of the complaint or if notice of the

complaint is posted upon a door of the residence where the alleged violation occurred. If the animal is not quieted within the above time period, and for the prescribed time period, a formal complaint may be signed before the Municipal Judge and served upon the owner.

11-0213. **COLLECTION OF ANIMAL SOLID WASTE ON PUBLIC PROPERTY.** Every person having custody or control of a dog or cat shall be equipped to, and collect said animal's solid waste when eliminated on property owned by the City of Harwood, the Harwood Park Board, or the Harwood School District. Any person who wishes to make a complaint regarding violations of this section must appear before the Judge of the Municipal Court and sign a complaint.

11-0214. **RABIES CONTROL.**

1. If a dog or cat is believed to have rabies, or has been bitten by an animal suspected of having rabies, or bites a human being, such dog or cat shall be confined on the owner’s premises and only be allowed outside of an enclosure under the direct supervision of an adult, provided the owner can provide proof that the animal is currently vaccinated for rabies. If no proof of a current rabies vaccination is provided, the animal will be quarantined with a licensed veterinarian or the city pound at the expense of the owner, for a period of ten (10) days from the date of the bite or from the date the animal is suspected of having rabies. The owner shall notify the City of the fact that the dog or cat has been exposed to rabies or has bitten a human being and, if in the discretion of the City Council the dog or cat is not properly confined by the owner, the City Auditor is empowered to have such dog or cat removed from the owner’s premises to the local pound or local veterinarian, and there placed under observation for a period of ten (10) days at the expense of the owner.

2. Every owner, or other person, upon ascertaining a dog or cat is rabid, shall immediately notify the City, which shall either remove the dog or cat to the pound or summarily destroy it.

3. If the animal shows clinical signs of rabies during the period of isolation, it must be humanely destroyed immediately in a manner that preserves the brain intact, and the brain tissue shall be transferred to the proper authorities to be examined for rabies.

4. Any animal confined in the city pound under the provisions of this section shall not be released until

all expenses of impoundment and related veterinary care are fully paid. Owners of any dog or cat that is to be placed in the pound or destroyed pursuant to the provisions of the above sections may request the City Auditor to review the impoundment or decision to destroy the animal.

5. The owner or other person in charge of any dog or cat, upon demand by any peace officer, must surrender the dog or cat which has bitten a human or domestic animal, or which is suspected as having been exposed to rabies, to city or state officials or to a licensed veterinarian as directed by the city or state officials. It is unlawful for an owner or other person in charge of an animal to fail or refuse to surrender the animal as required by this section. Notwithstanding any other provision of this title, any dog or cat that has bitten a human or domestic animal, or that is suspected of having rabies, may be seized by any peace officer.

TITLE XII.

PUBLIC CONDUCT - OFFENSES

CHAPTERS:

12-01. Criminal Offenses - General.
12-02. Obstruction of Government Operations and Law Enforcement.
12-03. Civil Rights.
12-04. Offenses Against Persons.
12-05. Offenses Against Property.
12-06. Theft and Related Offenses.
12-07. Offenses Against Public Order, Health, Safety and Sensibilities.
12-08. Noise Violations.
12-09. Possession of Marijuana.
12-10. Purchase of Alcoholic Beverages by Person Under 21 Years of Age.
12-11. Possession of Cigarettes and Tobacco Products

CHAPTER 12-01

CRIMINAL OFFENSES - GENERAL

SECTIONS:

12-0101. Criminal Attempt.
12-0102. Criminal Conspiracy.
12-0103. Aiding Consummation of a Crime.

12-0101. **CRIMINAL ATTEMPT.**

1. A person is guilty of a criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he intentionally engages in conduct which, in fact, constitutes a substantial step toward commission of the offense. A "substantial step" is any conduct which is strongly corroborative of the firmness of the actor's intent to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense, if it could have been committed had the attendant circumstances been as the actor believed them to be.

2. A person who engages in conduct intending to aid another to commit an offense is guilty of criminal attempt if the conduct would establish his complicity as an accomplice under N.D. Cent. Code § 12.1-03-01 were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense, for example, because he has a defense of justification or entrapment.

3. Criminal attempt is an offense if the crime attempted is an offense, except that whenever it is established by a preponderance of the evidence at sentencing that the conduct constituting the attempt did not come dangerously close to commission of the offense, an attempt to commit an offense shall be punished as an infraction. Criminal attempt to commit an infraction is an infraction.

12-0102. **CRIMINAL CONSPIRACY.**

1. A person commits conspiracy if he agrees with one or more persons to engage in or cause conduct which, in fact, constitutes an offense or offenses prescribed by the ordinances of this city, and any one or more of such

persons does an overt act to effect an objective of the conspiracy. The agreement or the overt act must occur within the city. The agreement need not be explicit, but may be implicit in the fact of collaboration or existence of other circumstances.

2. If a person knows or could expect that one with whom he agrees has agreed or will agree with another to effect the same objective, he shall be deemed to have agreed with the other, whether or not he knows the other's identity.

3. A conspiracy shall be deemed to continue until its objectives are accomplished. frustrated, or abandoned. "Objectives" includes escape from the scene of the crime, distribution of booty, and measures, other than silence, for concealing the crime or obstructing justice in relation to it. A conspiracy shall be deemed abandoned if no overt act to effect its objectives has been committed by any conspirator during the applicable period of limitations.

4. It is no defense to a prosecution under this section that the person with whom such person is alleged to have conspired has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense, is immune from prosecution, or is otherwise not subject to justice.

5. Accomplice liability for offenses committed in furtherance of the conspiracy is to be determined as provided in N.D. Cent. Code § 12.1-03-01.

6. Conspiracy shall be subject to the same penalty as that provided for the offense or offenses constituting the objective of the conspiracy.

12-0103. **AIDING CONSUMMATION OF A CRIME.** A person is guilty of the offense of aiding consummation of an offense against the ordinances of this city if he intentionally aids another to secrete, disguise, or convert the proceeds of the offense against the ordinances or otherwise profits from the offense.

CHAPTER 12-02

OBSTRUCTION OF GOVERNMENT OPERATIONS AND LAW ENFORCEMENT.

SECTIONS:

12-0201. Public Servants Permitting Escape.
12-0202. Criminal Contempt.
12-0203. Hindering Proceedings by Disorderly Conduct.
12-0204. Impersonating Officials.
12-0205. False Reports to Law Enforcement Officers.

12-0201. **PUBLIC SERVANTS PERMITTING ESCAPE.** A public servant concerned in official detention, as defined by N.D. Cent. Code § 12.1-08-06(3), pursuant to process issued by a court, judge, or magistrate is guilty of an offense against the ordinances of this city if he negligently permits an escape.

12-0202. **CRIMINAL CONTEMPT.**

1. The municipal court has power to punish for contempt of its authority only for the following offenses:

   a. Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

   b. Misbehavior of any of its officers in their official transactions;

   c. Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

2. Except as otherwise provided, a criminal contempt proceeding under this section shall be deemed a prosecution for an offense for the purposes of N.D. Cent. Code Chapters 12.1-01 through 12.1-05, N.D. Cent. Code Chapter 12.1-32, and Section 12-05 of this chapter.

3. A criminal contempt proceeding under this section is not a bar to subsequent prosecution for a specific offense if the court certifies in the judgment of conviction of criminal contempt, or the order terminating the proceeding without acquittal or dismissal, that a summary criminal contempt proceeding was necessary to prevent repetition of misbehavior disruptive of an ongoing proceeding and that subsequent prosecution as a specific

offense is warranted. In a subsequent prosecution, the defendant shall receive credit for all time spent in custody and any fine paid by him pursuant to the criminal contempt proceeding.

4. This section shall not be construed to deprive a court of its power, by civil contempt proceedings, to compel compliance with its lawful writ, process, order, rule, decree, or command or to compensate a complainant for losses sustained by reason of disobedience or resistance thereto, in accordance with the prevailing usages of law and equity, including the power of detention.

12-0203. **HINDERING PROCEEDINGS BY DISORDERLY CONDUCT.** A person is guilty of an offense if he recklessly hinders an official city proceeding by noise or violent or tumultuous behavior or disturbance.

12-0204. **IMPERSONATING OFFICIALS.** A person is guilty of an offense if he falsely pretends to be a public servant of this city and acts as if to exercise the authority of such public servant.

12-0205. **FALSE REPORTS TO LAW ENFORCEMENT OFFICERS.** A person is guilty of an offense if he intentionally or knowingly provides or gives a false report or false information to a law enforcement officer, unless such false statement is given with the intent to falsely implicate another, or involves a false report of a crime calling for an emergency response in which case, such false report would be a Class A Misdemeanor.

CHAPTER 12-03

CIVIL RIGHTS

SECTIONS:

12-0301. Discrimination in Public Places.
12-0302. Preventing Exercise of Civil Rights.

12-0301. **DISCRIMINATION IN PUBLIC PLACES.** A person is guilty of an offense if, whether or not acting under color of law, he, by force, or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because of his sex, race, color, religion, or national origin and because he is or has been exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.

2. Injures, intimidates, or interferes with another because of his sex, race, color, religion, or national origin in order to intimidate him or any other person from exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.

12-0302. **PREVENTING EXERCISE OF CIVIL RIGHTS.** A person is guilty of an offense if, whether or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because he is or is about to exercise his civil rights, or because he has exercised his civil rights.

2. Intimidates or prevents another from aiding a third person to exercise his civil rights.

CHAPTER 12-04

OFFENSES AGAINST PERSONS

SECTIONS:

12-0401. Simple Assault.
12-0402. Harassment.

12-0401. **SIMPLE ASSAULT.**

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

   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.

2. Consent to the conduct causing bodily injury to all persons injured by the conduct is a defense if:

   a. The conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or

   b. The conduct and the injury are reasonably foreseeable hazards of an occupation or profession or of medical or scientific experimentation conducted by recognized methods, and the persons subjected to such conduct or injury, having been made aware of the risks involved, consent to the performance of the conduct or the infliction of the injury.

3. Assent does not constitute consent, within the meaning of this ordinance if:

   a. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense and such incompetence is manifest or known to the actor;

b. It is given by a person who by reason of youth, mental disease or defect, or intoxication, is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

c. It is induced by force, duress, or deception.

12-0402. **HARASSMENT.** A person is guilty of an offense if, with intent to frighten or harass another, he:

1. Makes a telephone call anonymously or in offensively coarse language; or

2. Makes repeated telephone calls, whether or not a conversation ensues, with no purpose of legitimate communication.

CHAPTER 12-05

OFFENSES AGAINST PROPERTY

SECTIONS:

12-0501. Criminal Mischief.
12-0502. Tampering with or Damaging Property of Public Service.
12-0503. Defense of Consent - Property of Another.
12-0504. Criminal Trespass.
12-0505. Registration in Public Schools.

12-0501. **CRIMINAL MISCHIEF.** A person is guilty of an offense if he:

1. Willfully tampers with tangible property of another so as to endanger person or property; or

2. Willfully damages tangible property of another.

Conduct is punishable as criminal mischief under this ordinance when any pecuniary loss if intentionally caused is not in excess of one hundred dollars; if recklessly caused is not in excess of two thousand dollars; and if the damage to tangible property of another are not by means of an explosive or a destructive devise.

12-0502. **TAMPERING WITH OR DAMAGING PROPERTY OF PUBLIC SERVICE.** A person is guilty of an offense if he negligently causes a substantial interruption or impairment of a public communication, transportation, supply of water, gas, power, or other public service by:

1. Tampering with or damaging the tangible property of another;

2. Incapacitating an operator of such service; or

3. Negligently damaging the tangible property of another by fire, explosive, or other dangerous means.

12-0503. **DEFENSE OF CONSENT - PROPERTY OF ANOTHER.** For prosecutions of criminal mischief under Section 12-0501 or tampering with or damaging a public service under Section 12-0502:

1. Whenever it is an element of the offense that the property is of another, it is a defense to a prosecution

under those sections that the other has consented to the actor's conduct with respect to the property.

2. Property is that "of another" if anyone other than the actor has a possessory or proprietary interest therein.

12-0504. **CRIMINAL TRESPASS.** A person is guilty of an offense if:

1. Knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the person in charge of the premises or other authorized person or by posting in a manner reasonably likely to come to the attention of intruders; but the name of the person posting the premises must appear on each sign in legible characters; or

2. He remains upon the property of another after being requested to leave the property by a duly authorized person; but

if the place entered is a building, occupied structure, storage structure or separately secured or occupied portion thereof or is so enclosed as to manifestly exclude intruders or the person committing this offense has previously been convicted or pled guilty to a criminal trespass within two years from the date of the commission of this offense, then the offense shall be a Class A Misdemeanor and not within the purview of this ordinance.

12-0505. **REGISTRATION IN PUBLIC SCHOOLS.** During such time as regularly scheduled classes are in session, no person shall enter or remain in any public elementary or secondary school building within the City of Harwood without first registering in the main office of said school; provided, however, this section shall not apply to members of the School Board of the Harwood School District, faculty and employees of the Harwood School District, and students enrolled in that school.

Reasonable notification of the requirements of this section shall be conspicuously posted at the entrance to every public elementary and secondary school within the City of Harwood, and no complaint for a violation of this section shall issue unless such notice is given.

CHAPTER 12-06

THEFT AND RELATED OFFENSES

SECTIONS:

12-0601. Consolidated Theft Offenses.
12-0602. Theft of Property.
12-0603. Theft of Services.
12-0604. Theft of Property Lost, Mislaid, or Delivered by Mistake.
12-0605. Thefts Punishable Under City Ordinance.
12-0606. Defenses and Proof As To Theft and Related Offenses.
12-0607. Definitions.
12-0608. Making or Uttering Slugs.

12-0601. **CONSOLIDATED THEFT OFFENSES.**

1. Conduct denominated theft in Sections 12-0602 to 12-0604 constitutes a single offense designed to include the separate offenses heretofore known as larceny, stealing, purloining, embezzling, obtaining money or property by false pretense, extorting, blackmailing, fraudulently converting, receiving stolen property, misappropriating public funds, swindling, and the like.

2. A charge of theft under Sections 12-0602 to 12-0604 which fairly apprises the defendant of the nature of the charges against him shall not be deemed insufficient because it fails to specify a particular category of theft. The defendant may be found guilty of theft under such charge if his conduct falls under Section 12-0602 to 12-0604, so long as the conduct proved is sufficiently related to the conduct charged that the accused is not unfairly surprised by the case he must meet. Any person violating any provision of Sections 12-0602 to 12-0604 is guilty of a class B misdemeanor.

12-0602. **THEFT OF PROPERTY.** 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 with intent to deprive the owner thereof, or intentionally deprives another of his property by deception; or

3. Knowingly receives, retains, or disposes of property of another which has been stolen, with intent to deprive the owner thereof.

12-0603. **THEFT OF SERVICES.** A person is guilty of theft if:

1. He intentionally obtains services, known by him to be available only for compensation, by deception, false token, or other means to avoid payment for services; or

2. Having control over the disposition of services of another to which he is not entitled, he knowingly diverts those services to his 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.

12-0604. **THEFT OF PROPERTY LOST, MISLAID, OR DELIVERED BY MISTAKE.** A person is guilty of theft if he:

1. Retains or disposes of property of another when he knows it has been lost or mislaid; or

2. Retains or disposes of property of another when he knows 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, he fails to take readily available and reasonable measures to restore the property to a person entitled to have it.

12-0605. **THEFTS PUNISHABLE UNDER CITY ORDINANCE.** Theft under Sections 12-0602 to 12-0604 may be punished as an offense against the city ordinances if the highest value by any reasonable standard, regardless of the actor's knowledge of such value, of the property or services which were stolen by the actor, or which the actor believed that he was stealing, or which the actor could reasonably have anticipated to have been the property or services involved, does not exceed two hundred fifty dollars, and if:

1. The theft was not committed by threat;

2. The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft;

3. The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of his official duties;

4. The property stolen is not a firearm, ammunition, explosive or destructive device, or an automobile, aircraft, or other motor-propelled vehicle;

5. The property does not consist of any government file, record, document, or other government paper stolen from any government office or from any public servant;

6. The defendant is not in the business of buying or selling stolen property and he does not receive, retain, or dispose of the property in the course of that business;

7. The property stolen does not consist of any implement, paper, or other thing uniquely associated with the preparation of any money, stamp, bond, or other document, instrument, or obligation of the State of North Dakota;

8. The property stolen does not consist of livestock taken from the premises of the owner; and

9. The property stolen does not consist of a key or other implement uniquely suited to provide access to property the theft of which would be a felony and was not stolen to gain such access.

The provisions of Section 12-0605 shall be amended automatically to conform with any subsequent amendments to Section 12-23-05, N.D. Cent. Code, dealing with the grading of theft offenses so that Section 12-0605 shall give the City jurisdiction of all Class B misdemeanor theft offenses.

12-0606. **DEFENSES AND PROOF AS TO THEFT AND RELATED OFFENSES.**

1. It is a defense to a prosecution under Section 12-0601 to 12-0607 that:

   a. The actor honestly believed that he had a claim to the property or services involved which he was

entitled to assert in the manner which forms the basis for the charge against him; or

b. The victim is the actor's spouse, but only when the property involved constitutes household or personal effects or other property normally accessible to both spouses and the parties involved are living together. The term "spouse", as used in this section, includes persons living together as husband and wife.

2. a. It shall be a prima facie case of theft under this chapter if it is shown that a public servant or an officer, director, agent, or employee of, or a person connected in any capacity with a financial institution has failed to pay or account upon lawful demand for money or property entrusted to him as part of his official duties or if an audit reveals a shortage or falsification of his accounts.

b. It shall be prima facie evidence that the actor knows that property has been stolen if it is shown that, being a dealer, he acquired it for a consideration which he knew to be far below its reasonable value. "Dealer" means a person, whether licensed or not, who has repeatedly engaged in transactions in the type of property involved.

12-0607. **DEFINITIONS.** Applicable to Section 12-0601 to 12-0606.

1. "Deception" means:

a. Creating or reinforcing a false impression, including false impressions as to fact, law, status, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not substantially perform the promise unless it is part of a continuing scheme to defraud; or

b. Preventing another from acquiring information which would affect his judgment of a transaction; or

c. Failing to correct a false impression which the actor previously created or reinforced, or which he

knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

d. Failing to correct an impression which the actor previously created or reinforced and which the actor knows to have become false due to subsequent events; or

e. Failing to disclose a lien, adverse claim, or other impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained or in order to continue to deprive another of his property, whether such impediment is or is not valid, or is or is not a matter of official record; or

f. Using a credit card, charge plate, or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer (1) where such instrument has been stolen, forged, revoked, or canceled, or where for any other reason its use by the actor is unauthorized, and (2) where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument; or

g. Any other scheme to defraud. The term "deception" does not, however, include falsifications as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means an exaggerated commendation of wares in communications addressed to the public or to a class or group.

2. "Deprive" means:

a. To withhold property or to cause it to be withheld either permanently or under such circumstances that a major portion of its economic value, or its use and benefit, has, in fact, been appropriated; or

b. To withhold property or to cause it to be withheld with the intent to restore it only upon the payment of a reward or other compensation; or

c. To dispose of property or use it or transfer any interest in it under circumstances that make its restoration, in fact, unlikely.

3. "Fiduciary" means a trustee, guardian, executor, administrator, receiver, or any other person acting in a fiduciary capacity, or any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

4. "Financial institution" means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

5. "Obtain" means:

a. In relation to property, to bring about a transfer or purported transfer of an interest in the property, whether to the actor or another; or

b. In relation to services, to secure performance thereof.

6. "Property" means any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents although the rights represented thereby have no physical location), contract right, chose-in-action, interest in or claim to wealth, credit, or any other article or thing of value of any kind. "Property" also means real property the location of which cannot be moved if the offense involves transfer or attempted transfer of an interest in the property.

7. "Property of another" means property in which a person other than the actor or in which a government has an interest which the actor is not privileged to infringe without consent, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person or government might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or

other security agreement. "Owner" means any person or a government with an interest in property such that it is "property of another" as far as the actor is concerned.

8. "Receiving" means acquiring possession, control, or title, or lending on the security of the property.

9. "Services" means labor, professional service, transportation, telephone, mail or other public service, gas, electricity and other public utility services, accommodations in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other property.

10. "Stolen" means property which has been the subject of theft or robbery or a vehicle which is received from a person who is then in violation of N.D. Cent. Code § 12.1-23-06.

11. "Threat" means an expressed purpose, however communicated, to:

    a. Cause bodily injury in the future to the person threatened or to any other person; or

    b. Cause damage to property; or

    c. Subject the person threatened or any other person to physical confinement or restraint; or

    d. Engage in other conduct constituting a crime; or

    e. Accuse anyone of a crime; or

    f. Expose a secret or publicize an asserted fact, whether true or false, tending to subject a person living or deceased, to hatred, contempt, or ridicule or to impair another's credit or business repute; or

    g. Reveal any information sought to be concealed by the person threatened; or

    h. Testify or provide information or withhold testimony of information with respect to another's legal claim or defense; or

i. Take or withhold official action as a public servant, or cause a public servant to take or withhold official action; or

j. Bring about or continue a strike, boycott, or other similar collective action to obtain property or deprive another of his property which is not demanded or received for the benefit of the group which the actor purports to represent; or

k. Cause anyone to be dismissed from his employment, unless the property is demanded or obtained for lawful union purposes; or

l. Do any other act which would not in itself substantially benefit the actor or a group he represents but which is calculated to harm another person in a substantial manner with respect to his health, safety, business, employment, calling, career, financial condition, reputation, or personal relationship. Upon a charge of theft, the receipt of property in consideration for taking or withholding official action shall be deemed to be theft by threat regardless of whether the owner voluntarily parted with his property or himself initiated the scheme.

12-0610. **MAKING OR UTTERING SLUGS.**

1. A person is guilty of an offense if he makes or utters a slug or slugs which do not exceed fifty dollars in value with intent to deprive a supplier of property or service sold or offered by means of a coin machine or with knowledge that he is facilitating such a deprivation by another person.

2. In this section:

a. "Slug" means a metal, paper, or other object which by virtue of its size, shape, or any other quality is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill, or token;

b. "Coin machine" means a coin box, turnstile, vending machine, or other mechanical or electronic device or receptacle designed (1) to receive a coin or bill of a certain denomination or a token made for

the purpose; and (2) in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing, or permit the acquisition of property or a public or private service.

c. "Value" of the slugs means the value of the coins, bills, or tokens for which they are capable of being substituted.

CHAPTER 12-07

OFFENSES AGAINST PUBLIC ORDER, HEALTH, SAFETY AND SENSIBILITIES

SECTIONS:

12-0701. Engaging in a Riot.
12-0702. Disobedience of Public Safety Orders Under Riot Conditions.
12-0703. Disorderly Conduct.
12-0704. Defense When Conduct Consists of Speech or Other Expression.
12-0705. Prostitution.
12-0706. Refrigerators Abandoned or Unattended Out of Doors.
12-0707. Urinating in Public.

12-0701. **ENGAGING IN A RIOT.**

1. A person is guilty of an offense if he engages in a riot.

2. "Riot" means a public disturbance involving an assemblage of five or more persons which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs law enforcement or other government function.

3. A person shall be convicted under Section 12-0101 or 12-0102 of attempt or conspiracy to commit an offense under this section only if he engages in the prohibited conduct under circumstances in which there is a substantial likelihood that his conduct will imminently produce a violation of this section. Mere presence at a riot is not an offense under this section.

12-0702. **DISOBEDIENCE OF PUBLIC SAFETY ORDERS UNDER RIOT CONDITIONS.** A person is guilty of an offense if, during a riot as defined in Section 12-0701.2, or when one is immediately impending, he disobeys a reasonable public safety order to move, disperse, or refrain from specified activities in the immediate vicinity of the riot. A public safety order is an order designed to prevent or control disorder, or promote the safety of persons or property, issued by the senior law enforcement official on the scene.

12-0703. **DISORDERLY CONDUCT.** A person is guilty of violating the ordinances of this City if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another is harassed, annoyed or alarmed by his behavior, he:

1. Engages in fighting, or in violent, tumultuous or threatening behavior;

2. In a public place, uses abusive, insulting, or offensive language, or an abusive, insulting, or offensive gesture, under circumstances in which such language by its very utterance, or gesture, is likely to cause or provoke a disturbance or breach of the peace;

3. Makes unreasonable noise;

4. Obstructs vehicular or pedestrian traffic, or the use of a public facility;

5. Persistently follows a person in or about a public place or places;

6. While loitering in a public place for the purpose of soliciting sexual contact, he solicits such contact;

7. Creates a hazardous or seriously alarming condition by any act which he is not licensed or privileged to do;

8. Enters on the property of another and for a lewd or unlawful purpose looks into a dwelling on the property through any window or other opening in the dwelling;

9. Not being a peace officer, discharges a firearm or displays a deadly weapon in a public place;

10. Exposes his genitals under circumstances in which, in fact, his conduct is likely to be observed by a person who would be offended or alarmed, and with intent to arouse or gratify the sexual desire of any person, including the actor;

11. Throws any missile in a public place or in any place where there is any person to be endangered thereby, although no injury to any person ensues; or

12. Creates, by chemical means, a noxious and unreasonable odor in a public place.

12-0704. **DEFENSE WHEN CONDUCT CONSISTS OF SPEECH OR OTHER EXPRESSION.**

1. If conduct that would otherwise violate Section 12-0703.3 (unreasonable noise) or Section 12-0703.4 (obstructing traffic or public facility) consists of speech or other

communication, of gathering with others to hear or observe such speech or communication, or of gathering with others to picket or otherwise express in an nonviolent manner a position on social, economic, political, or religious questions, the actor must be ordered to move, disperse, or otherwise remedy the violation prior to his arrest if he has not yet intentionally harmed the interests of others which those sections seek to protect.

2. The order required by this section may be given by a peace officer, a fireman, a person with authority to control the use of the premises, or any person directly affected by the violation.

3. It is a defense to prosecution under Section 12-0703.3 or 4:

   a. That in circumstances in which this section requires an order no order was given;

   b. That an order, if given, was manifestly unreasonable in scope; or

   c. That an order, if given, was promptly obeyed.

12-0705. **PROSTITUTION.**

1. A person is guilty of the offense of prostitution if he:

   a. Is an inmate of a house of prostitution or is otherwise engaged in sexual activity as a business; or

   b. Solicits another person with the intention of being hired to engage in sexual activity.

2. Testimony of a person against his or her spouse shall be admissible to prove offenses under this section involving that spouse's prostitution.

3. In this section:

   a. "Sexual activity" means sexual act or sexual contact as those terms are defined in N.D. Cent. Code § 12.1-20-02.

   b. A "house of prostitution" is any place where prostitution is regularly carried on by a person

under the control, management, or supervision of another.

c. An "inmate" is a prostitute who acts as such in or through the agency of a house of prostitution.

12-0706. **REFRIGERATORS ABANDONED OR UNATTENDED OUT OF DOORS.**

1. The provisions of this ordinance shall apply to any ice box, refrigerator, freezer or ice chest, having a capacity of one and one half cubic feet or more, and any other airtight container in which a child could become entrapped and suffocate (hereinafter referred to in this ordinance as a dangerous container). No person, firm, corporation or organization shall abandon any such refrigerator, freezer, ice box, ice chest or dangerous container any place in the city. No person shall leave any such refrigerator, freezer, ice box, ice chest or dangerous container unattended out of doors without first having removed the door or cover. The purpose of this ordinance is to prevent children from dying for lack of air as a result of being locked in such a refrigerator, ice chest, ice box, or dangerous container.

2. No refrigerator, freezer, ice chest or ice box with a capacity of one and one half cubic feet or more shall be left out of doors for the purpose of selling ice cubes, unless such device is designed so that there is no door large enough for a baby or child to enter or to be placed in the device, provided that the device may have one larger door that is locked and can be unlocked and opened only by an attendant, not by any customer.

3. In addition to the other penalties and remedies provided in this ordinance, any city officer or employee finding any freezer, refrigerator, ice box, ice chest or dangerous container covered by this ordinance unattended in any place out of doors or cover, in violation of this ordinance, shall immediately take steps to avoid the danger of a child being trapped inside. These steps shall include:

   a. The door will be opened to see if any baby or child is inside.

   b. If there is an owner, attendant or other person in charge at the premises, such person shall be notified that the device must be moved at once or

the door or cover removed at once by removal of the hinges, latches or other such device.

c. If there is no owner, attendant or other person in charge at the premises, the front door or cover shall be removed by removing the hinges, latch, lock or similar devices holding the door in place. Provided, that a refrigerator held shut only by magnetism not jammed or stuck may have the hinges or latch left on temporarily if, in the opinion of the city employee or officer taking action under this ordinance, such temporary leaving of the condition creates no immediate danger to life.

d. If circumstances indicate that the device is abandoned, the city shall arrange to remove the same to a licensed landfill for disposal.

e. If there is no owner, attendant or other person in charge on the premises where any action is taken under this section, the city officer or employee who took action under this section shall notify the owner, attendant or person in charge in writing as soon as possible. If the owner or attendant is unknown, or if no address is known for any owner, attendant or other person in charge, written notice shall be left on the premises where the refrigerator or other device is found to be in violation of the provisions of this ordinance.

12-0707. **URINATING IN PUBLIC.** It shall be unlawful to urinate or defecate on any public street, or upon any public sidewalk or in any other pubic place; in or on any vehicle in public or in any store, assembly hall, corridor, entryway or other place open to and used by the public, except in a restroom, and then only in a toilet or urinal or other fixture normally used for that purpose.

CHAPTER 12-08

NOISE VIOLATIONS

SECTIONS:

12-0801. Definitions.
12-0802. Unnecessary Noise Prohibited.
12-0803. Unlawful Noise - Determination.
12-0804. Motorized Vehicles.
12-0806. Aircraft.
12-0807. Exemptions.
12-0808. Application for Special Permit.
12-0809. Enforcement.
12-0809. Penalty.
12-0810. Severability.

12-0801. **DEFINITIONS.** For purposes of this chapter certain words and phrases used herein are defined as follows:

1. "Ambient noise" is the all-encompassing noise associated with a given environment, being usually composite of sounds from many sources, near and far.

2. "'A' band level" is the total sound level of all noise as measured with a sound level meter using the "A" weighing network. The unit measurement is the dB(A). "dB" is the abbreviation for the decibel. "dB(A)" is a weighted decibel which closely approximates the human ear response to sound.

3. "Bel" is the common logarithmic value of any sound intensity as related to the standard threshold of audibility (minimum detectable sound 10-12 watts per square meter).

4. "Decibel" is one-tenth (1/10) of a bel as measured on the "A" scale of a standard sound meter.

5. "Cycle" is the complete sequence of value of a periodic quantity that occur during a period.

6. "Frequency" of a function periodic in time is the reciprocal of the primitive period. The unit is the cycle per unit time and must be specified.

7. "Sound-level meter" is an instrument including a microphone, an amplifier, an output meter, and frequency weighing networks for the measurement of noise and sound levels in a specified manner.

8. "Person" is a person, person's firm, association, co-partnership, joint venture, corporation or any entity public or private in nature.

9. "Emergency work" is work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

10. "Emergency vehicles" are those vehicles such as ambulance, fire, police, and other city vehicles operating in time of emergency.

12-0802. **UNNECESSARY NOISE PROHIBITED.** It shall be unlawful for any person to make any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the City of Harwood.

12-0803. **UNLAWFUL NOISE - DETERMINATION.** The standards which shall be considered in determining whether a violation of Section 12-0802 exists shall include, but shall not be limited, to the following:

1. The volume of the noise.

2. The intensity of the noise.

3. Whether the nature of the noise is usual or unusual.

4. Whether the origin of the noise is natural or unnatural.

5. The volume and intensity of the background noise, if any.

12-0804. **MOTORIZED VEHICLES.** It shall be unlawful to operate a motorized vehicle within the city limits which creates a noise or sound which exceeds the noise level limits set out in Table 1, as follows:

TABLE 1. LIMITING NOISE LEVELS FOR MOTOR VEHICLES

1. Trucks, buses, construction equipment, or any motor vehicle with a gross weight rating of ten thousand (10,000) pounds or more:

Maximum allowable limit: 88 dB(A) measured at or corrected to 25 feet.

2. Passenger cars, pickups, vans, motorcycles, snowmobiles, or any motor vehicle with a gross weight rating less than ten thousand (10,000) pounds:
Maximum allowable limit: 80 dB(A) measured at or corrected to 25 feet.

3. Interstate Motor Carrier:
Maximum allowable limit:
   a. 92 dB(A) measured at or corrected to 25 feet when traveling on roadways with speed limits of 35 mph or less.
   b. 92 dB(A) measured at or corrected to 25 feet when traveling on roadways with speed limits of more than 35 mph.

12-0805. **AIRCRAFT.** It shall be unlawful for any person to operate or cause to be operated any type of aircraft over the city which produces noise levels exceeding eighty-eight (88) dB(A) within the city.

12-0806. **EXEMPTIONS.** The following uses and activities shall be exempt from noise level regulations:

1. Noises of safety signals, warning devices, and emergency relief valves.

2. Noises resulting from any authorized emergency vehicles, when responding to an emergency call or acting in time of emergency.

3. Noises resulting from emergency work as defined in Section 12-0801.9.

4. Any construction or maintenance activities at the construction or maintenance site.

5. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the city in accordance with Section 12-0806.

6. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction used pursuant to and with the duly adopted federal air regulations shall be exempt from the provisions of Section 12-0805 as well as other

regulations of this Section. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of aid traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations shall also be exempt from the provisions of Section 12-0805 as well as the other regulations of this Section.

7. Any regulation of railroad noise will be subject to the following:

Title 40, Code of Federal Regulations, part 201:

1. 201.1 (c), (m), (p) , (t), (aa), (dd), (ee)
2. 201.10
3. 201.11 (a), (b)
4. 201.12 (a), (b)
5. 201.13
6. 201.22, 201.23, 201.24

12-0807. **APPLICATION FOR SPECIAL PERMIT.** Applications for a permit for relief from the noise level designated in this Section on the basis of undue hardship may be made to the city engineer or his duly authorized representative. Any permit granted by the city engineer hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The city engineer, or his duly authorized representative, may grant the relief as applied for if he finds:

1. That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this Section; or

2. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this Section; and

3. That no other reasonable alternative is available to the applicant; and

4. The city engineer may prescribe any conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

12-0808. **ENFORCEMENT.** Whenever any peace officer determines that there has been a violation of the provisions of this chapter, and the violation involves a gathering of people at a premise, the

officer may order all persons present, other than the owner or tenant of the premise where the disturbance is occurring, to disburse immediately. Any person refusing to leave the premises after being ordered to do so by the peace officer is subject to the penalty provisions of this chapter. The officer shall cite, if present, the owner of the premises, or the tenant of such premises, or in the absence of the above two, any person in charge of the premises for violation of the provisions of this chapter. This Section, in no way limits the authority of an officer to cite other persons for violation of the provisions of this chapter.

12-0809. **PENALTY.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

12-0810. **SEVERABILITY.** Should any part or provision of this ordinance by declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

CHAPTER 12-09

POSSESSION OF MARIJUANA

SECTIONS:

12-0901. Definitions.
12-0902. Possession of Marijuana.
12-0903. Jurisdiction.
12-0904. Burden of Proof.
12-0905. Penalty.

12-0901. **DEFINITIONS.**

1. "Marijuana" means all parts of the plant cannabis whether growing or not; the seeds thereof; the resinous product of the combustion of the plant cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds. 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, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

12-0902. **POSSESSION OF MARIJUANA.** It shall be unlawful to possess marijuana within the jurisdiction of the City of Harwood, North Dakota. For purposes of this section, possession includes actual or constructive possession. Constructive possession shall mean the power and capability to exercise dominion and control over the marijuana.

12-0903. **JURISDICTION.** The Municipal Court of the City of Harwood shall have jurisdiction over persons possessing not more than one-half (1/2) ounce (14.175 grams) of marijuana, as defined in this chapter, and who are not operating a motor vehicle.

12-0904. **BURDEN OF PROOF.** In all prosecutions under this chapter involving the analysis of a substance or sample thereof, a certified copy of the analytical report signed by the state toxicologist or the state laboratories director shall be accepted as prima facie evidence of the results of the analytical findings.

12-0905. **PENALTY.** Every person, firm or corporation violating any of the provisions of this chapter shall upon conviction be punished by a fine not to exceed $1,000 or by

imprisonment not to exceed thirty days, or both such fine and imprisonment, in the discretion of the court; and the court to have power to suspend said sentence and to revoke the suspension thereof.

12-0906. **PROCEDURE TO EXPUNGE RECORD OF CONVICTION.** Whenever a person pleads guilty or is found guilty of a first offense regarding the violation of this chapter, the court, upon motion, shall expunge that conviction from the record if that person is not subsequently convicted within two (2) years of the further violation of this chapter and has not been convicted of any other criminal offense.

CHAPTER 12-10

PURCHASE OF ALCOHOLIC BEVERAGES BY PERSONS
UNDER 21 YEARS OF AGE

SECTIONS:

12-1001. Persons Under 21 Years of Age Prohibited from Purchasing, Consuming or Possessing Alcoholic Beverages.
12-1002. Purchasing or Procuring for Persons Under 21 Years of Age Prohibited.
12-1003. Furnishing Money by Persons Under 21 Years of Age for Alcoholic Beverages Prohibited.
12-1004. Misrepresentation of Age to Gain Admission or to Purchase Alcoholic Beverages Prohibited.
12-1005. Penalty.

12-1001. **PERSONS UNDER 21 YEARS OF AGE PROHIBITED FROM PURCHASING, CONSUMING OR POSSESSING ALCOHOLIC BEVERAGES.** It shall be unlawful for any person under the age of twenty-one (21) years to purchase, attempt to purchase, consume or have in his or her possession alcoholic beverages as defined in Section 10-0101 of the Revised Ordinances of 2006 of the City of Harwood, North Dakota. This Section shall not apply to a person 19 years of age or older who is serving alcoholic beverages in a restaurant pursuant to the provisions and restrictions set out in Section 10-0116.5 of the Revised Ordinances of 2006 of the City of Harwood, North Dakota. For purposes of this section, possession includes actual or constructive possession. Constructive possession shall mean the power and capability to exercise dominion and control over the alcoholic beverage.

12-1002. **PURCHASING OR PROCURING FOR A PERSON UNDER 21 YEARS OF AGE PROHIBITED.** It shall be unlawful for any person to purchase or procure for any person under the age of twenty-one (21) years any alcoholic beverages as defined in Section 10-0101 of the revised ordinances or to furnish or to deliver such alcoholic beverages as defined in Section 10-0101 of the revised ordinances to any person.

12-1003. **FURNISHING MONEY BY PERSONS UNDER 21 YEARS OF AGE FOR ALCOHOLIC BEVERAGES PROHIBITED.** It shall be unlawful for any person under the age of twenty-one (21) years to furnish money to any other person for the purpose of purchasing alcoholic beverages as defined in Section 10-0101 of the revised ordinances.

12-1004. **MISREPRESENTATION OF AGE TO GAIN ADMISSION OR TO PURCHASE ALCOHOLIC BEVERAGES PROHIBITED.** It shall be unlawful for any person under the age of twenty-one (21) years to make any false statement or to furnish, present, or exhibit any false or fictitious registration card or other document or evidence for the purpose of gaining admission to any place where his or her presence is prohibited or for the purpose of procuring the sale to him or her of any alcoholic beverages as defined in Section 10-0101 of the revised ordinances.

12-1005. **PENALTY.** Any person violating any provision of this chapter shall be subject to a fine of not more than $1,000 or a jail sentence of not more than 30 days or both.

CHAPTER 12-11

POSSESSION OF CIGARETTES AND TOBACCO PRODUCTS

SECTIONS:

12-1101. Definitions.
12-1102. Sale of Cigarettes and Tobacco Products to Minors Prohibited.
12-1103. Possession and Use of Cigarettes and Tobacco Products by Minors Prohibited.

12-1101. **DEFINITIONS.**

1. "Cigarette and tobacco products" means all cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing.

2. "Constructive possession" means the power and capability to exercise dominion and control over cigarette and tobacco products.

3. "Sell," includes dispensing from a vending machine under the control of the actor.

12-1102. **SALE OF CIGARETTES AND TOBACCO PRODUCTS TO MINORS PROHIBITED.** It is a class B misdemeanor for any person to sell or furnish to a minor or procure for a minor cigarettes and tobacco products.

12-1103. **POSSESSION AND USE OF CIGARETTES AND TOBACCO PRODUCTS BY MINORS PROHIBITED.** It is a class B misdemeanor for a minor to smoke, use, or possess cigarette and tobacco products. Possession shall, for purposes of this section, include actual and constructive possession.

TITLE XIII.

TRAFFIC

CHAPTERS:

13-01. Definitions.
13-02. RESERVED FOR FUTURE USE.
13-03. Enforcement and Obedience to Traffic Regulations.
13-04. Traffic Control Devices.
13-05. Streets.
13-06. Operation of Vehicle.
13-07. Criminal Violation.
13-08. Miscellaneous Regulations.
13-09. General Rules of the Road.
13-10. Miscellaneous Driving Rules.
13-11. Speed.
13-12. Turning Movements.
13-13. Pedestrians.
13-14. Accidents.
13-15. Equipment of Vehicles - size, weight, height and load restrictions.
13-16. Parking.
13-17. Railroad cars and crossings.
13-18. Bicycles.
13-19. Transportation by Motor Vehicles of Explosives Within City.
13-20. Snowmobiles.
13-21. Arrest Procedure.
13-22. Classification and Disposition of Traffic Offenses.

CHAPTER 13-01

DEFINITIONS

SECTIONS:

13-0101 Definitions.

13-0101. **DEFINITIONS.** The following words and phrases, when used in this title, shall have the meanings respectively ascribed to them except in those instances where the context clearly indicates a different meaning:

1. "Authorized Emergency Vehicles."

   a. Class A authorized emergency vehicles shall mean:

      (1) Vehicles of a governmental owned fire department, or of the City or Fire Department members used in connection with the Fire Department;

      (2) Vehicles when operated by or under the control of a municipal police officer, or any other law enforcement officer authorized to act in the municipality;

      (3) Ambulances;

      (4) Vehicles of City departments, or individuals so designated or authorized by the Board of County Commissioners;

      (5) Vehicles designated for the use of the Adjutant General and Assistant Adjutant General in cases of emergency;

      (6) Vehicles operated by or under the control of the Director, Assistant Director, and Park Superintendents of the North Dakota Park Service.

   b. Class B authorized emergency vehicles shall consist of wreckers, and other automotive assistance vehicles.

   c. Class C vehicles by civil defense directors while used in the performance of emergency duties.

2. "Bicycle" shall mean every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than twenty (20) inches in diameter.

3. "Bus" shall mean every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons, and every motor vehicle, other than a taxi cab, designed and used for the transportation of persons for compensation.

4. "Business District" shall mean the territory contiguous to a highway when fifty percent (50%) or more of the frontage thereon or a distance of three hundred (300) feet or more is occupied by buildings in use for business; and the term "business district" shall in all cases include that portion of the City lying within the fire limits now established or to be hereafter established in the City of Harwood, together with all streets or alleys constituting the boundaries thereof.

5. "Commercial Freighting" shall mean the carriage of things other than passengers, for hire, except that such terms shall not include:

   a. Carriage by local dray lines, baggage or goods to or from a railroad station, from or to places in the City or in the immediate vicinity thereof, not to exceed two miles from the corporate or recognized limits of the City; or

   b. Hauling done by farmers for their neighbors in transporting agricultural products to or from market.

6. "Commercial Vehicle" shall mean a vehicle designed, maintained, or used primarily for the transportation of property for hire.

7. "Controlled-Access Highway'' shall mean every highway, street, or road-way in respect to owners or occupants of abutting lands and other persons have no legal right or access to or from the same except at such points only and in such manner as may be determined by the City Council.

8. "Cross Walk" shall mean that part of a road-way at an intersection included within the connections of the lateral lines of the sidewalk on opposite sides of the highway measured from the curbs, from the edges of the traversable roadway; or any portion of a roadway at an

intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

9. "Curb" shall mean the boundary of that portion of the street open to the use of the public from that from the use of vehicles.

10. "Curb Loading Zone" shall mean a space adjacent to a curb reserved for the exclusive use of vehicles for the loading and unloading of passengers or materials.

11. "Dealer" shall mean every person, partnership or corporation engaged in the business of buying, selling or exchanging motor vehicles, or who advertises, or holds himself out to the public as engaged in the buying, selling or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, or association doing business in several locations in the City shall be considered a separate dealer in each such location.

12. "Driver" shall mean every person who drives or is in actual physical control of a vehicle, and shall include the rider or driver of any animal.

13. "Essential Parts" shall mean all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

14. "Explosives" shall mean any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, and which contains any oxidizing or combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing sudden destructive effects on contiguous objects or by destroying life or limb.

15. "Farm Tractor" shall include every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.

16. "Flammable Liquid" shall mean any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closedcup test device.

17. "Freight Curb Loading Zone" shall mean a space adjacent to a curb for the exclusive use of vehicles during a loading or unloading of freight.

18. "Guest" shall mean a person who accepts a ride in any vehicle without giving compensation therefore.

19. "Gross Weight" shall mean the weight of a vehicle without load plus the weight of any load thereon.

20. "Highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

21. "Implement of Husbandry" shall mean every vehicle designed or adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway.

22. "Intersection" shall mean the area embraced within the prolongation or connection of the lateral curb line, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle become in conflict, whether or not one such street crosses the other. Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

23. "Intoxicating Liquor" shall mean and include any beverage containing alcohol.

24. "Laned Roadway" shall mean a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

25. "Legal Owner" shall mean a person who holds the legal title to the vehicle.

26. "Local Authorities" shall include every individual, local board, or body having authority to adopt local police regulations under the ordinances of this municipality.

27. "Mail" shall mean to deposit mail properly addressed with postage prepaid with the United States Postal Service.

28. "Manufacturer" shall mean any person engaged in the business of manufacturing motor vehicles or trailers.

29. "Metal Tires" shall include all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material.

30. "Motor Vehicle" shall include any vehicle which is self-propelled.

31. "Motorcycle" shall mean every motor vehicle having a seat or saddle for the use of the rider designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry.

32. "Non-Resident" shall mean any person who is not a resident of this municipality.

33. "Official Time Standard" shall mean whenever certain hours are named herein they shall mean standard time or daylight savings time as may be in current use in this City.

34. "Official Traffic-Control Devices" shall mean all signs, signals, markings and devices not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

35. "Operator" shall mean every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

36. "Owner" shall mean the person holding legal title to a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the condition stated in the agreement, and with an immediate right of possession vested in the conditional vendee or lessee, or if the

mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this title.

37. "Park or Parking" shall mean the standing of a vehicle, occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

38. "Passenger Curb Loading Zone" shall mean a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

39. "Pedestrian" shall mean any person afoot.

40. "Person" shall include every natural person, firm, partnership, association or corporation.

41. "Pneumatic Tires" shall include all tires inflated with compressed air.

42. "Pole Trailer" shall mean every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads, such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

43. "Police Officer" shall mean every officer authorized to direct and regulate traffic or to make arrests for violations of traffic regulations.

44. "Private Road or Driveway" shall mean every way or place in private ownership in use for vehicular travel by the owner and those having expressed or implied permission from the owner, but not by other persons.

45. "Public Building" shall mean any theater, moving picture house, hospital, church, school, city building, state building, federal building, public library or post office.

46. "Railroad" shall mean a carrier of persons or property on cars, other than street cars, operated upon stationary rails.

47. "Railroad Sign or Signal" shall mean any sign, signal, or device erected by authority of a public body or official

or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

48. "Residence District" shall mean all of that territory within the City of Harwood outside the district known and designated as the fire limits, and not comprising a part of the business district.

49. "Revocation" means that the driver's license and the privilege to drive a motor vehicle on the public streets are terminated and shall not be renewed or restored except that an application for a new license may be presented and acted upon by the proper authorities after the expiration of the period of revocation, which period shall not be less than thirty (30) days.

50. "Right-of-Way" shall mean the privilege of the immediate use of a roadway.

51. "Roadway" shall mean that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

52. "Safety Zone" shall mean the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set aside as a safety zone.

53. "School bus" shall mean every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

54. "School Zone" shall mean the area or space of any public street or alley, any part of which abuts or lies opposite any public or private property used exclusively for school purposes, where any children of the age of sixteen (16) years or less receive educational training, and shall include public play grounds.

55. "Semi-Trailer" shall include any vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its

own load rests upon or is carried by another motor vehicle.

56. "Sidewalk" shall mean that portion of a street between the curb lines or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

57. "Solid Tires" shall include every tire made of rubber or other material other than a pneumatic tire.

58. "Stand or Standing" shall mean the halting of vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

59. "Stop" when required, shall mean complete cessation from movement.

60. "Stop or Stopping" when prohibited, this means any halting even momentarily of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control sign or signal.

61. "Street" shall mean the entire width between the legal lines of every way publicly maintained when any part thereof is open to the public for the purposes of vehicular travel. Said term shall include and mean public and private parking lots.

62. "Suspension" means that the driver's license and privilege to drive a motor vehicle on the streets are temporarily withdrawn, but only during the period of such suspension.

63. "Through Highway or Street" shall mean every highway street which is described as a principal arterial, minor arterial, or collector street in the City of Harwood.

64. "Traffic" shall mean pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly or together while using any highway for purposes of travel.

65. "Traffic Control Signal" shall mean any device whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

66. "Trailer" shall include every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

67. "Tricycle" shall mean every device propelled by human power upon which any person may ride, having three wheels any of which is more than twenty (20) inches in diameter.

68. "Truck" shall include every motor vehicle designed, used, or maintained primarily for transportation of property.

69. "Truck Tractor" shall include every motor vehicle designed and used primarily for drawing other vehicles and not so constructed to carry a load other than a part of the weight of the vehicle and load so drawn.

70. "Urban District" shall mean the territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses situated at intervals of 100 feet for a distance of a quarter of a mile or more.

71. "Vehicle" shall mean every device in, upon, or by which any person or property is, or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks. A bicycle, tricycle or a ridden animal shall be deemed a vehicle.

CHAPTER 13-02

RESERVED FOR FUTURE USE

CHAPTER 13-03

ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

SECTIONS:

13-0301. Authority of Fire Department Officials.
13-0302. Obedience to Police and Fire Department Officials.
13-0303. Public Employees When Subject to Provisions of this Title.
13-0304. Rights of Owners of Real Property Used for Roadway to Make Regulations for Same.

13-0301. **AUTHORITY OF FIRE DEPARTMENT OFFICIALS.**

1. Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

13-0302. **OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS.** No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer certified by the State of North Dakota or any fire department official.

13-0303. **PUBLIC EMPLOYEES WHEN SUBJECT TO PROVISIONS OF THIS TITLE.** The provisions of this title shall apply to the driver of any vehicle owned by or used in the service of the United States government, the State of North Dakota, this County, City, District or other political subdivisions of the State, and it shall be unlawful for any said driver to violate any of the provisions of this title subject to exceptions as are set forth in this title or in the State Vehicle Code. The provisions of this title shall not apply to persons, teams, motor vehicles or other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles while traveling to or from work.

13-0304. **RIGHTS OF OWNERS OF REAL PROPERTY USED FOR ROADWAY TO MAKE REGULATIONS FOR SAME.** Nothing in this title shall be construed to prevent the owner of real property used by the public for the purposes of vehicular travel by permission of the owner and not as a matter of right, from prohibiting such use nor from requiring other or different or additional conditions than those specified in this title or otherwise regulating such use as may seem best to such owner.

CHAPTER 13-04

TRAFFIC CONTROL DEVICES

SECTIONS:

13-0401. Authority to Install Traffic Control Devices.
13-0402. Manual and Specifications for Traffic-Control Devices.
13-0403. Obedience to Official Traffic-Control Devices.
13-0404. Traffic-Control Signal Legend.
13-0405. Pedestrian Control Signals.
13-0406. Flashing Signals.
13-0407. Designates Crosswalks and Establishes Every Safety Zone and Traffic Lane.
13-0408. RESERVED FOR FUTURE USE.
13-0409. Intersection Where Yield is Required.
13-0410. Interference with Official Traffic-Control Devices or Railroad Signs or Signals.
13-0411. Display of Unauthorized Signs, Signals or Markings.

13-0401. **AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES.**

1. The City Council may place and maintain such traffic control devices as may be necessary to regulate traffic under the traffic ordinances of this City or under State law or to guide or warn traffic.

13-0402. **MANUAL AND SPECIFICATIONS FOR TRAFFIC-CONTROL DEVICES.** All traffic-control signs, signals, and devices shall conform to the specifications approved by the State Highway Commissioner pursuant to North Dakota Century Code Section 39-13-06. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the City. All traffic-control devices so erected and not inconsistent with the provisions of State law or this chapter shall be official traffic-control devices.

13-0403. **OBEDIENCE TO OFFICIAL TRAFFIC-CONTROL DEVICES.** The provisions of N.D. Cent. Code § 39-10-04 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0404. **TRAFFIC-CONTROL SIGNAL LEGEND.** The provisions of North Dakota Century Code 39-10-05 and all subsequent amendments shall be, and are, hereby incorporated by reference in this ordinance.

13-0405. **PEDESTRIAN CONTROL SIGNALS.** The provisions of N.D. Cent. Code § 39-10-06 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0406. **FLASHING SIGNALS.** The provisions of N.D. Cent. Code § 39-10-07 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0407. **DESIGNATES CROSSWALKS AND ESTABLISHES EVERY SAFETY ZONE AND LANE.** The City Council may:

1. Designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at the intersection where in their opinion there is particular danger to pedestrians crossing the roadway, and at such other places as may be necessary;

2. Establish safety zones of such kind and character and at such places as may be necessary for the protection of pedestrians;

3. Designate traffic lanes upon the roadway of any street or highway where a regular alinement of traffic is necessary. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

13-0408. **RESERVED FOR FUTURE USE.**

13-0409. **INTERSECTION WHERE YIELD IS REQUIRED.** The City Council may determine and designate intersections where particular hazard exists upon other than through streets and may determine:

1. Whether vehicles shall stop at one or more entrances to any such intersection, in which event it shall cause to be erected a stop sign at every such place where stop is required subject to the approval of the City Council;

2. Whether vehicles shall yield right-of-way to vehicles on a different street at such intersection in which event it shall cause to be erected a yield sign at every place where obedience thereto is required.

13-0410. **INTERFERENCE WITH OFFICIAL TRAFFIC-CONTROL DEVICES OR RAILROAD SIGNS OR SIGNALS.** The provisions of N.D. Cent. Code

§ 39-10-07.3 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0411. **DISPLAY OF UNAUTHORIZED SIGNS, SIGNALS OR MARKINGS.** The provisions of N.D. Cent. Code § 39-10-07.2 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

CHAPTER 13-05

STREETS

SECTIONS:

13-0501. Creation and Extension of Through and One-way Streets.
13-0502. Authority to Sign One-way Streets and Alleys.
13-0503. One-way Streets and Alleys.
13-0504. Authority to Establish Play Streets.
13-0505. Play Streets - Driving Restricted.
13-0506. Dumping of Snow on City Street Prohibited.

13-0501. **CREATION AND EXTENSION OF THROUGH AND ONE-WAY STREETS.** The City Council may create, extend or discontinue through streets and may create one-way streets.

13-0502. **AUTHORITY TO SIGN ONE-WAY STREETS AND ALLEYS.** Whenever any ordinance of the City designates any one-way street or alley, the City shall place and maintain signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

13-0503. **ONE-WAY STREETS AND ALLEYS.** Upon one-way streets and alleys, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained.

13-0504. **AUTHORITY TO ESTABLISH PLAY STREETS.** The City Council may declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

13-0505. **PLAY STREETS - DRIVING RESTRICTED.** Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

13-0506. **DUMPING OF SNOW ON CITY STREET PROHIBITED.** It shall be unlawful for any person, association, partnership, corporation, or other entity to deposit, place or dump, or permit or authorize

the depositing, placing or dumping of any snow removed from parking lots, from filling station areas, or from other private property upon any City street.

CHAPTER 13-06

OPERATOR OF VEHICLE

SECTIONS:

13-0601. Care Required in Operating Vehicle.
13-0602. Operation of Motor Vehicles by Certain Minors Forbidden.
13-0603. Registration Card to be Carried in or on Vehicle: Inspection of Card.
13-0604. Proper Display of License Upon Vehicle.
13-0605. Driver's License.
13-0606. Restricted Licenses.
13-0607. Unlawful Use of License.
13-0608. Registration Number Prima Facie Evidence.
13-0609. Open Bottle Law-Penalty.
13-0610. Careless Driving.
13-0611. Exhibition Driving and Racing - Definitions - Penalty.

13-0601. **CARE REQUIRED IN OPERATING MOTOR VEHICLE.** The provisions of N.D. Cent. Code § 39-09-01.1 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0602. **OPERATION OF MOTOR VEHICLE BY CERTAIN MINORS FORBIDDEN.**

1. The driving or operation of any automobile within the City limits of Harwood by any person under the age of fourteen (14) years is prohibited. The driving or operation of other motor vehicles, including motorcycles, motor-driven cycles, taxi-cabs, trucks and delivery cars, within the limits of Harwood by any person under the age of sixteen (16) years is prohibited.

2. Any owner or other person having charge of or having within his control or supervision, a motor vehicle, and who knowingly allows or permits such motor vehicle to be driven or operated within the City of Harwood by a minor under the age of fourteen (14), shall be guilty of a misdemeanor and shall be deemed to have violated the provisions of this chapter and shall upon conviction thereof be subject to the penalty provided by this title.

13-0603. **REGISTRATION CARD TO BE CARRIED IN OR ON VEHICLE: INSPECTION OF CARD.** The registration card issued for a vehicle

shall be carried in the driver's compartment of the vehicle or, in the case of a house trailer or mobile home or trailer or semi-trailer, regardless of when such vehicle was acquired, inside or on the vehicle, at all times when the vehicle is being operated upon the streets of the City. Such card shall be subject to inspection by any peace officer. Any person violating this section must be assessed a fee of Twenty Dollars ($20). However, a person cited for violation of this ordinance may not be found to have committed the violation if the person, within forty-eight (48) hours after being cited, produces and displays to any peace officer, or to the hearing official before whom the person was to appear, a registration card valid at the time the person was cited. A peace officer, upon citing a person for violating this person, shall inform the person that a violation will be considered as not having occurred if the person produces and displays a valid registration card in the manner provided in this section. A peace officer receiving evidence of the existence of a valid registration card as herein provided shall notify the hearing official of the appropriate jurisdiction of that fact.

13-0604. **PROPER DISPLAY OF LICENSE UPON VEHICLE.** It shall be unlawful for any person to commit any of the following acts:

1. To operate, or for the owner of the vehicle to knowingly permit anyone to operate, upon a highway any vehicle, the registration of which has been canceled or revoked, or which is not registered, or which does not have attached thereto and displayed thereon a current number plate, plates, or validation tabs assigned thereto by the Registrar of the Motor Vehicle Department of the State of North Dakota, or his appropriate counterpart from another state, subject to the exemptions allowed in this chapter;

2. To display or cause to be displayed, or to have in possession any registration card, registration number plate, or validation tabs knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered; and

3. To lend any registration number plate, registration card, or validation tabs to any person not entitled thereto, or knowingly permit the use of any registration number plate or registration card by any person not entitled thereto.

13-0605. **DRIVER'S LICENSE.**

1. A person, unless exempted by state law, may not drive any motor vehicle on a public or private area to which the public has the right of access for vehicular use in the City unless the person has a valid license as an operator

under the provisions of Chapter 39-06 of the North Dakota Century Code, or a temporary operator's permit issued under Chapter 39-20 of the North Dakota Century Code.

2. Every licensee shall have his operator's license or permit in his immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of any court, police patrolman, peace officer or a field deputy or inspector of the Highway Department. However, no person charged with violating this section shall be convicted if he produces in court or the office of the arresting officer, an operator's license or permit heretofore issued to him and valid at the time of his arrest.

13-0606. **RESTRICTED LICENSES.** No person shall operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him.

13-0607. **UNLAWFUL USE OF LICENSE.** It shall be unlawful for any person:

1. To display, or cause, or permit to be displayed or have in his possession any canceled, revoked, suspended, fictitious, or fraudulently altered operator's or chauffeur's license;

2. To lend his operator's or chauffeur's license to any other person or knowingly permit the use thereof by another;

3. To display or represent as one's own any operator's or chauffeur's license not issued to him;

4. To fail or refuse to surrender to the State upon lawful demand any operator's or chauffeur's license which has been suspended, revoked or canceled;

5. To permit any unlawful use of an operator's or chauffeur's license issued to him.

13-0608. **REGISTRATION NUMBER PRIMA FACIE EVIDENCE.** In any proceeding for a violation of the provisions of this title or any local ordinance, rule or regulation, the registration plate displayed on such vehicle or tractor shall be prima facie evidence that the owner of such vehicle or tractor was then operating the same. If in any hearing or proceeding, the owner shall testify, under an oath or affirmation, that he was not operating the said vehicle or tractor at the time of the alleged violation of this

title or any local ordinance, rule or regulation, and shall submit himself to an examination as to who at that time was operating such a vehicle or tractor, and reveal the name of the person, if known to him or, if the information is made in a county other than that of his own residence, shall forward to the magistrate an affidavit setting forth these facts, then the prima facie evidence arising from the registration plate shall be overcome and removed and the burden of proof shifted.

13-0609. **OPEN BOTTLE LAW-PENALTY.** The provisions of N.D. Cent. Code § 39-08-18 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0610. **CARELESS DRIVING.** The provisions of N.D. Cent. Code § 39-09-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0611. **EXHIBITION DRIVING AND DRAG RACING - DEFINITIONS - PENALTY.** The provisions of N.D. Cent. Code § 39-08-03.1 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

CHAPTER 13-07

CRIMINAL VIOLATIONS

SECTIONS:

13-0701. Reckless Driving.
13-0702. Driving While License Suspended or Revoked.
13-0703. Persons Under the Influence of Intoxicating Liquor or Narcotic Drugs not to Operate Vehicle: Declaring What Constitutes Being Under the Influence of Intoxicating Liquor or Narcotic Drugs - Penalty.
13-0704. Accidents Involving Damage to Vehicle - Penalty.
13-0705. Duty Upon Striking Highway Fixtures or Other Property.
13-0706. Operating a Snowmobile in a Reckless or Careless Manner.
13-0707. Persons Under the Influence of Intoxicating Liquor or Narcotic Drugs Not to Operate Snowmobile.
13-0708. Harassment of Domestic Animals.
13-0709. Driving Without Liability Insurance Prohibited.

13-0701. **RECKLESS DRIVING.** The provisions of N.D. Cent. Code § 39-08-03 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0702. **DRIVING WHILE LICENSE SUSPENDED OR REVOKED.** The provisions of N.D. Cent. Code § 39-06-42 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0703. **PERSONS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR NARCOTIC DRUGS NOT TO OPERATE VEHICLE: DECLARING WHAT CONSTITUTES BEING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR NARCOTIC DRUGS - PENALTY.** The provisions of N.D. Cent. Code § 39-08-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0704. **ACCIDENTS INVOLVING DAMAGE TO VEHICLE - PENALTY.** The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirement of giving information and aid as set out by state law.

13-0705. **DUTY UPON STRIKING HIGHWAY FIXTURES OR OTHER PROPERTY.** The driver of any vehicle involved in an accident resulting only in damage to highway fixtures or other property shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license and shall make report of such accident when and as required by state law.

13-0706. **OPERATING A SNOWMOBILE IN A RECKLESS OR CARELESS MANNER.** The provisions of N.D. Cent. Code § 39-24-09(5)(b) and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0707. **PERSONS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR NARCOTIC DRUGS NOT TO OPERATE SNOWMOBILE.** The provisions of N.D. Cent. Code § 39-24-09(5)(c) and all subsequent amendments shall be and are hereby incorporated by reference ln this ordinance.

13-0708. **HARASSMENT OF DOMESTIC ANIMALS.** The provisions of N.D. Cent. Code § 39-08-19 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0709. **DRIVING WITHOUT LIABILITY INSURANCE PROHIBITED.** Provisions of N.D. Cent. Code § 39-08-20, and all subsequent amendments thereto shall be and hereby are incorporated by this reference.

CHAPTER 13-08

MISCELLANEOUS REGULATIONS

SECTIONS:

13-0801. Operation of Motor Vehicle, Tractor or Other Vehicle Prohibited on Flood Protective Works: Exception.
13-0802. Driving on Inclines and Under Viaducts.
13-0803. When Permits Required for Parades and Processions.
13-0804. Renting Motor Vehicle: License of Renter.
13-0805. Renting Motor Vehicle: License Inspection.
13-0806. Renting Motor Vehicle: Records.
13-0807. Clinging to Vehicles.
13-0808. Persons Propelling Push Carts or Riding Animals to Obey Traffic Regulations.
13-0809. Use of Coasters, Roller Skates and Similar Devices Restricted.
13-0810. Garbage, Glass, Etc. on Highways Prohibited.

13-0801. **OPERATION OF MOTOR VEHICLE, TRACTOR OR OTHER VEHICLE PROHIBITED ON FLOOD PROTECTIVE WORKS: EXCEPTION.** Unless authorized by the authority in charge thereof, no person shall operate a motor vehicle, tractor or other vehicle upon or across any flood protective works, including but not limited to dike or flood protective works constructed by a state or federal agency, or by a municipality or local subdivision of the state. Any person violating the provisions of this section shall be liable to the city municipality or political subdivision suffering injury for the full amount sustained thereby and in addition thereto shall be guilty of a misdemeanor.

13-0802. **DRIVING ON INCLINES AND UNDER VIADUCTS.** The driver of a motor vehicle traversing any incline or curve or proceeding under any viaduct or bridge shall hold such motor vehicle under control and as near the right-hand side of the highway as reasonably possible and upon approaching any curve or point where the view is obstructed along the highway shall give audible warning with a horn or other warning device.

13-0803. **WHEN PERMITS REQUIRED FOR PARADES AND PROCESSIONS.** No processions or parade containing fifty or more persons or twenty or more vehicles, except for the forces of the United States Army or Navy, the military forces of this state, the forces of the police and fire department, shall occupy, march or proceed along

any street except in accordance with a permit issued by the City Council and other pertinent regulations, statutes and ordinances.

13-0804. **RENTING MOTOR VEHICLE: LICENSE OF RENTER.** No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed hereunder or, in the case of a non-resident, then duly licensed under the laws of the state or country of his residence, or unless the renter certifies that the vehicle shall be driven by a duly licensed driver.

13-0805. **RENTING MOTOR VEHICLE: LICENSE INSPECTION.** No person shall rent a motor vehicle to another unless he has inspected the operator's or chauffeur's license of the person to whom the vehicle is to be rented, or of the person by whom the vehicle shall be driven, and compared and verified the signature thereon with the signature of such person written in his presence.

13-0806. **RENTING MOTOR VEHICLE: RECORDS.** Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person, or, his certified driver, and the date and place when and where said license was issued. Such record shall be open to inspection by any police officer.

13-0807. **CLINGING TO VEHICLES.** No person riding upon any vehicle, coaster, skis, roller skates, sled, toboggan or toy vehicle shall attach the same or himself, with or without any of the aforementioned items, to any vehicle upon any roadway.

13-0808. **PERSONS PROPELLING PUSH CARTS OR RIDING ANIMALS TO OBEY TRAFFIC REGULATIONS.** Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this title applicable to the driver of any vehicle, except those provisions of this title which by their very nature can have no application.

13-0809. **USE OF COASTERS, ROLLER SKATES AND SIMILAR DEVICES RESTRICTED.** No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

13-0810. **GARBAGE, GLASS, ETC. ON HIGHWAYS PROHIBITED.** The provisions of N.D. Cent. Code § 39-10-59 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

CHAPTER 13-09

GENERAL RULES OF THE ROAD

SECTION:

13-0901. Following Too Closely.
13-0902. Right of Way.
13-0903. Exception to the Right of Way Rule.
13-0904. Vehicle Entering Through Street or Stop Intersection.
13-0905. Vehicle Entering Yield Intersection.
13-0906. Driving on Divided Street or Highway.
13-0907. Restricted Access.
13-0908. Restrictions on Use of Controlled-Access Roadways.
13-0909. Drive on Right Side of Roadway: Exceptions.
13-0910. Passing Vehicles Proceeding in Opposite Directions.
13-0911. Dimming of Headlights on Meeting Another Vehicle.
13-0912. Overtaking a Vehicle on the Left.
13-0913. When Overtaking on the Right is Permitted.
13-0914. Limitations on Overtaking on the Left.
13-0915. Further Limitations of Driving to Left of Center of Roadway.
13-0916. No Passing Zones.
13-0917. Driving on Roadways Laned for Traffic.
13-0918. Stopping on Street.
13-0919. Emerging from Alley, Driveway or Building.
13-0920. Authorized Emergency Vehicles.
13-0921. Operation of Vehicles on approach of Authorized Emergency Vehicles.

13-0901. **FOLLOWING TOO CLOSELY.** The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the street, and in no event more closely than would permit the driver of the vehicle following another to stop within the space between the two vehicles in case the first vehicle stops upon the street.

13-0902. **RIGHT OF WAY.** The following rules shall be applicable to the right of way of vehicles:

1. When two vehicles approach or enter an intersection at approximately the same time and there is a reasonable probability of a collision unless one gives way, the driver of the vehicle on the left has the greater duty to maintain a fair margin of safety and shall yield the

right of way to the vehicle on the right except as otherwise provided in this title.

2. The driver of any vehicle traveling at an unlawful speed shall forfeit any right of way which he might otherwise have hereunder.

3. The driver of a vehicle which is backing up shall yield the right of way to other vehicles.

13-0903. **EXCEPTION TO THE RIGHT OF WAY RULE.** The following shall be exceptions to the right of way rules:

1. The driver of a vehicle entering a public street or highway from a private road or drive shall yield the right of way to all vehicles approaching or on such public street or highway; and

2. The driver of a vehicle upon the streets or highways of this city shall yield the right of way to a Class A authorized emergency vehicle when the driver of any said vehicle sounds audible signal by horn, bell, siren or exhaust whistle as may be reasonably necessary, or when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle except that an authorized emergency vehicle operated as a police vehicle need not be equipped with nor display a red light visible from in front of the vehicle, right of way shall be yielded to such authorized emergency vehicle, regardless of traffic signals, lights or signs. This provision shall not operate to relieve the driver of such authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the streets or highways, nor shall it protect the driver of any such vehicle from the consequences of his reckless disregard for the safety of others.

13-0904. **VEHICLE ENTERING THROUGH STREET OR STOP INTERSECTION.**

1. The driver of a vehicle shall come to a complete stop before entering or crossing any through street or highway and shall use special care and caution in crossing the intersection of or intercepting the lines of traffic on, such through highways or streets, until his way is clear of such through traffic; provided that when the traffic at any intersection of such through street or highway is

regulated or controlled by traffic lights, or by a member of the police department on duty, the driver of any vehicle shall be regulated and controlled thereby and shall act in accordance with the directions and regulations of such traffic lights or such traffic policemen, and in accordance with any traffic signs therein placed affecting such traffic;

2. The driver of a vehicle shall likewise come to a complete stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one or more entrances thereto although not a part of a through street or highway shall use special care and caution in crossing the intersection of, or intercepting the line of traffic on, such stop intersection, until his way is clear of such traffic; provided that when the traffic at any intersection is regulated or controlled by traffic lights, or by a member of the police department on duty, the driver of any vehicle shall be regulated and controlled thereby, and shall act in accordance with the directions and regulations of such traffic lights or such traffic policeman, and in accordance with any traffic signs there in place affecting such traffic;

3. Every driver approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection, or in the event there is not a crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by police officer or a traffic-control signal.

13-0905. **VEHICLE ENTERING YIELD INTERSECTION.**

1. The driver of a vehicle approaching a yield right-of-way sign shall in obedience to such sign slow down to a speed reasonable for the existing condition or shall stop, if necessary, and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving and to any vehicle in the intersection or approaching on another street or highway so closely as to constitute an immediate hazard. A driver who enters a yield intersection without stopping or has or causes a collision with a pedestrian in a crosswalk or a vehicle in the intersection shall prima facie be considered not to have yielded as required herein. The foregoing shall not relieve the drivers of other vehicles approaching the intersection at such distance as not to constitute an

immediate hazard from the duty to drive with due care to avoid a collision.

2. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if not, then at a point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

13-0906. **DRIVING ON DIVIDED STREET OR HIGHWAY.** Whenever any street or highway has been divided into two roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority.

13-0907. **RESTRICTED ACCESS.** No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

13-0908. **RESTRICTIONS ON USE OF CONTROLLED-ACCESS ROADWAYS.** The provisions of N.D. Cent. Code § 39-10-21 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0909. DRIVE ON RIGHT SIDE OF ROADWAY: EXCEPTIONS. The provisions of N.D. Cent. Code § 39-10-08 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0910. **PASSING VEHICLES PROCEEDING IN OPPOSITE DIRECTIONS.** The provisions of N.D. Cent. Code § 39-10-09 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0911. **DIMMING OF HEADLIGHTS ON MEETING ANOTHER VEHICLE.** Whenever a driver of a vehicle approaches an oncoming vehicle during a time specified in Section 13-1510 of these ordinances, the driver of each vehicle shall dim his headlamps so that under normal atmospheric conditions, such lamps shall throw a beam not more than one hundred feet ahead of such vehicle.

13-0912. **OVERTAKING A VEHICLE ON THE LEFT.** The provisions of N.D. Cent. Code § 39-10-11 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0913. **WHEN OVERTAKING ON THE RIGHT IS PERMITTED.** The provisions of N.D. Cent. Code § 39-10-12 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0914. **LIMITATIONS ON OVERTAKING ON THE LEFT.** The provisions of N.D. Cent. Code § 39-10-13 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0915. **FURTHER LIMITATIONS ON DRIVING TO LEFT OF CENTER OF ROADWAY.** The provisions of N.D. Cent. Code § 39-10-14 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0916. **NO PASSING ZONES.** The provisions of N.D. Cent. Code § 39-10-15 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0917. **DRIVING ON ROADWAYS LANED FOR TRAFFIC.** The provisions of N.D. Cent. Code § 39-10-17 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0918. **STOPPING ON STREET.** The following rules shall be applicable stopping and parking vehicles on streets:

1. No person shall park or leave standing any vehicle, whether attended or unattended, upon the main traveled portion of any street when it is practicable to park or leave such vehicle standing off the main traveled portion of the street; provided in no case shall any person park or leave standing attended or unattended, upon any street, a vehicle unless a clear and unobstructed width of not less than fifteen feet shall be left free for the passage of other vehicles thereon, and unless a clear view of such vehicle may be obtained from a distance of two hundred feet in both directions upon such streets;

2. No driver of any vehicle shall stop the same on any street, avenue, lane or alley of the city in such manner as to prevent or hinder other vehicles or persons from passing at all times, unless in case of absolute necessity, nor shall any driver of any vehicle stop the same at any regular crossing of said street, alley, lane

or avenue so as to prevent the free passage of persons traveling or passing on foot.

3. Whenever any peace officer shall find a vehicle standing upon a street or highway in violation of the provisions of this section, he is hereby authorized to move such vehicle, or require the driver or person in charge of such vehicle to move such vehicle, to a position permitted under this section, or to impound it at the expense of the owner or driver.

4. Provisions of this section shall not apply to the driver of any vehicle which is disabled while upon the main traveled portion of a street in such manner and to such extent that it is impossible to avoid stopping temporarily leaving such vehicle in such position.

13-0919. **EMERGING FROM ALLEY, DRIVEWAY OR BUILDING.** The driver of a vehicle emerging from an alley, driveway, private road, or building within a business or resident district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road, or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon. Such driver entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

13-0920. **AUTHORIZED EMERGENCY VEHICLES.** The provisions of N.D. Cent. Code §§ 39-10-03, 39-10-03.1, and 39-10-03.2 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-0921. **OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES.** The provisions of N.D. Cent. Code § 39-10-26 and all subsequent amendments shall be and are incorporated by reference in this ordinance.

CHAPTER 13-10

MISCELLANEOUS DRIVING RULES

SECTIONS:

13-1001. Following Fire Apparatus Prohibited, Parking Within Block Where Fire Apparatus Used Prohibited: Driving Over Fire Hose or Through Street Barricade Prohibited.
13-1002. Driving Through Parade, Funeral or Procession.
13-1003. Drivers in a Procession.
13-1004. Vehicle Shall Not Be Driver on a Sidewalk.
13-1005. Limitations on Backing.
13-1006. Opening and Closing Vehicle Doors.
13-1007. Motorcycles - Helmet.
13-1008. Starting Parked Vehicles.
13-1009. Boarding or Alighting From Vehicles.
13-1010. Unlawful Riding.
13-1011. Cruising About Streets Forbidden.
13-1012. Towing Sleds and Carts.
13-1013. Obstruction to Driver's View or Driving Mechanism.
13-1014. Coasting Prohibited.
13-1015. Child Restraint Devices - Penalty - Evidence.
13-1016. Overtaking and Passing of School Bus.
13-1017. Use of Safety Belts Required in Certain Motor Vehicles.

13-1001. **FOLLOWING FIRE APPARATUS PROHIBITED, PARKING WITHIN BLOCK WHERE FIRE APPARATUS USED PROHIBITED: DRIVING OVER FIRE HOSE OR THROUGH STREET BARRICADE PROHIBITED.** It shall be unlawful for the driver of any vehicle other than one on official business:

1. To follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet;

2. To drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm;

3. To drive over any fire hose without the consent of the fire department official in command;

4. To drive through or around any street barricade.

13-1002. **DRIVING THROUGH PARADE, FUNERAL OR PROCESSION.** No vehicle except an authorized emergency vehicle as defined in Section 13-0101(1)(a) may drive through any parade, funeral or

procession except with the permission or upon the signal of a police officer.

13-1003. **DRIVERS IN A PROCESSION.** Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe. The headlights of all vehicles shall be turned on so that identification of vehicles in such procession is easily established.

13-1004. **VEHICLE SHALL NOT BE DRIVEN ON A SIDEWALK.** The driver of a vehicle shall not drive on or within any sidewalk area except at a permanent or temporary driveway.

13-1005. **LIMITATIONS ON BACKING.**

1. The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

2. The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway.

13-1006. **OPENING AND CLOSING VEHICLE DOORS.** No person shall open a door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

13-1007. **MOTORCYCLES - HELMET.**

1. No person under the age of eighteen (18) years shall operate or ride upon a motorcycle unless protective headgear, which complies with standards established by the North Dakota Highway Department, is being worn on the head of the operator and rider, except when participating in a lawful parade. If the operator of a motorcycle is required to wear protective headgear, any passenger must also wear protective headgear regardless of the age of the passenger.

2. This section shall not apply to persons riding within an enclosed cab or on a golf cart.

3. No person shall operate a motorcycle if a person under the age of eighteen (18) years is a passenger upon that

motorcycle and is not wearing protective headgear as provided in subsection 1.

13-1008. **STARTING PARKED VEHICLES.** The provisions of N.D. Cent. Code § 39-10-37 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1009. **BOARDING OR ALIGHTING FROM VEHICLES.** No person shall board or alight from any vehicle while such vehicle is in motion.

13-1010. **UNLAWFUL RIDING.** No person shall ride on any vehicle or any portion thereof not designated or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.

13-1011. **CRUISING ABOUT STREETS FORBIDDEN.** No common carrier of freight or passengers shall cruise about the streets to solicit business.

13-1012. **TOWING SLEDS AND CARTS.** No driver or operator shall tow or permit the towing by any vehicle on the streets of the City of Harwood of any sleigh, wagon, cart, toboggan, skis or any other device which creates a traffic hazard.

13-1013. **OBSTRUCTION TO DRIVERS' VIEW OR DRIVING MECHANISM.** The provisions of N.D. Cent. Code § 39-10-54 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1014. **COASTING PROHIBITED.** The provisions of N.D. Cent. Code § 39-10-56 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1015. **CHILD RESTRAINT DEVICES - PENALTY - EVIDENCE.** The provisions of N.D. Cent. Code § 39-21-41.2 and all subsequent amendments shall be and are hereby incorporated by this reference.

13-1016. **OVERTAKING AND PASSING OF SCHOOL BUS.**

1. The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop the vehicle before reaching such school bus when there is in operation on said school bus the, flashing red lights specified in Section 39-21-18, N.D. Cent. Code, and said driver shall not proceed until such school bus resumes motion or he is signaled by the school bus

driver to proceed or the flashing red lights are no longer actuated.

2. Every school bus shall bear upon the front and rear thereof plainly visible signs containing the word "SCHOOL BUS" in letters not less than eight inches [20.32 centimeters] in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or for a school sanctioned activity, all markings thereon indicating "SCHOOL BUS" shall be covered or concealed.

3. The operator of a school bus equipped with amber caution lights may activate those lights at a distance of not less than three hundred feet [91.44 meters] nor more than five hundred feet [152.4 meters] from the point where school children are to be received or discharged from the bus.

4. Every school bus shall be equipped with red visual signals meeting the requirements of Section 39-21-18, N.D. Cent. Code, which may be actuated by the driver of said school bus whenever, but only whenever, such vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate said special visual signals:

   a. On city streets on which the receiving or discharging of school children is prohibited by ordinance;

   b. At intersections or other places where traffic is controlled by traffic-control signals of police officers; or

   c. In designated school bus loading areas where the bus is entirely off the roadway.

5. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

The provisions of N.D. Cent. Code § 39-10-46 and all subsequent amendments shall be and are hereby incorporated by this reference.

13-1017. **USE OF SAFETY BELTS REQUIRED IN CERTAIN MOTOR VEHICLES.** The provisions of N.D. Cent. Code §§ 39-21-41.4 and 39-21-41.5 of the North Dakota Century Code, and all subsequent amendments thereto, shall be and hereby are incorporated by reference in this ordinance.

CHAPTER 13-11

SPEED

SECTIONS:

13-1101. Speed Limitations.
13-1102. Speed Limitations Inapplicable to Whom: Liability of Exempt Driver for Reckless Driving.
13-1103. Increase or Decrease of Speed Limits.
13-1104. Impeding Traffic.
13-1105. Radar Evidence in Speed Violations.

13-1101. **SPEED LIMITATIONS.** Except in instances where a lower speed is specified in this Title or by the laws of this state, it shall be prima facie lawful for the driver of a vehicle to drive the same at a speed not exceeding:

1. Twenty-five miles per hour on all streets and avenues of this city unless otherwise posted.

2. Fifteen miles an hour when passing a school which is in session or while children are going to or leaving school during opening or closing hours.

3. Fifteen miles an hour in traversing or going around curves or traversing a grade upon a highway or street when the driver's view is obstructed within a distance of one hundred feet along such street in a direction in which he is proceeding; or at any intersection.

4. Fifteen miles per hour when passing any public playground, park, swimming pool, tennis court, or other similar recreational area during the hours when said facility is in use.

In any case when the speed limitation provided for in the foregoing subsection shall be unsafe, it shall be unlawful to operate a motor vehicle at such speed. It shall be unlawful for any person to exceed any such foregoing speed limitations except as otherwise provided in this Title.

13-1102. **SPEED LIMITATIONS INAPPLICABLE TO WHOM: LIABILITY OF EXEMPT DRIVER FOR RECKLESS DRIVING.** The speed limitations provided for in this Title shall not apply to operators of vehicles designated in Section 13-0920 while in the performance of their duties. The exemption provided for in this section shall not

protect the driver of any such vehicle from the consequences of reckless disregard of the safety of others.

13-1103. **INCREASE OR DECREASE OF SPEED LIMITS.** The City Council, by resolution, may increase or decrease the speed limits as set by Section 13-1101 above, providing signs giving notice of such changes are properly placed and maintained.

13-1104. **IMPEDING TRAFFIC.** Except when necessary for safe operation or to comply with some other provisions of this Title, no person shall drive a motor vehicle at a rate of speed or in such a manner, so slow as to block or impede the normal and reasonable flow of traffic.

13-1105. **RADAR EVIDENCE IN SPEED VIOLATIONS.** The speed of any motor may be checked by the use of radio microwaves or other electrical device. The results of such checks shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. The driver of any such motor vehicle may be arrested without a warrant under this section, provided the arresting officer is in uniform or displays his badge of authority and provided that such officer has observed the record of the speed of such motor vehicle by the radio microwave or other electrical device, or has received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwave or other electrical device.

CHAPTER 13-12

TURNING MOVEMENTS

SECTIONS:

13-1201. Required Position and Method of Turning at Intersections.
13-1202. Turning Movements and Required Signals.
13-1203. Vehicle Turning Left at Intersection
13-1204. Authority to Place Restricted Turn Signs.
13-1205. Obedience to No-turn Signs.
13-1206. Limitations on Turning Around.
13-1207. Authority to Place and Obedience to Turning Markers.

13-1201. **REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTIONS.** The driver of a vehicle intending to turn at an intersection shall do as follows:

1. Right turn. Both approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;

2. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection;

3. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of the vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered; and

4. The City may cause marker, buttons, or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

13-1202. **TURNING MOVEMENTS AND REQUIRED SIGNALS.**

1. No person shall turn a vehicle or move right or left upon a roadway unless or until such movement can be made with reasonable safety without giving an appropriate signal in the manner hereinafter provided.

2. A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning. Signal either by an approved mechanical or electrical device or by means of hand and arm in the manner hereinafter specified. Whenever the signal is given by means of hand and arm, the driver shall indicate his intention to turn left by extending the hand and arm horizontally; to indicate a right turn by extending the forearm and hand upward and to indicate a stop by extending the arm outward and down; in each case, from and beyond the left side of the vehicle.

3. No person shall stop or suddenly decrease the speed of the vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

13-1203. **VEHICLE TURNING LEFT AT INTERSECTION.** The driver of a vehicle intending to turn left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. Said driver shall use special care and caution in entering the intersection and completing the left turn.

13-1204. **AUTHORITY TO PLACE RESTRICTED TURN SIGNS.** The City Council shall determine those intersections at which drivers of vehicles shall not make a right, left or "U'' turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at

other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

13-1205. **OBEDIENCE TO NO-TURN SIGNS.** Whenever authorized signs are erected indicating that no right or left or "U" turn is permitted, no driver of a vehicle shall disobey a direction of any such sign.

13-1206. **LIMITATIONS ON TURNING AROUND.**

1. No "U" turn shall be made at any mid-block location or at any signalized intersection in the City. The City Council may by means of signs forbid "U" turns.

2. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, whereupon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet.

13-1207. **AUTHORITY TO PLACE AND OBEDIENCE TO TURNING MARKERS.** The City Council may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by the vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

CHAPTER 13-13

PEDESTRIANS

SECTIONS:

13-1301. Pedestrians Subject to Traffic-Control Signals.
13-1302. Right-of-way of Pedestrians When Intersection is Regulated.
13-1303. Right-of-way of Pedestrians When an Intersection is not Regulated.
13-1304. Crossing at Other than Crosswalks.
13-1305. Pedestrians to Use Right Half of Crosswalk.
13-1306. Blind Persons Right-of-Way.
13-1307. Obedience of Pedestrians to Railroad Signals.
13-1308. Pedestrians Walking Along Roadways.
13-1309. Pedestrians Soliciting Rides or Business.
13-1310. Blocking Traffic of Pedestrians.
13-1311. Pedestrians not to Obstruct Traffic.
13-1312. Right to Cross Street Safely: Interference with Vehicles.
13-1313. Playing on Streets Prohibited.
13-1314. Drivers to Exercise Due Care.

13-1301. **PEDESTRIANS SUBJECT TO TRAFFIC-CONTROL SIGNALS.** Pedestrians shall be subject to traffic-control signals and heretofore declared in Section 13-0404 and 13-0405 of this title, but at all other places pedestrians shall have those rights and be subject to the restrictions stated in this title.

13-1302. **RIGHT-OF-WAY OF PEDESTRIANS WHEN INTERSECTION IS REGULATED.** No vehicle shall cross a crosswalk where traffic is regulated by a peace officer or a system of traffic control signals until pedestrians who have properly commenced to cross the street have completed their passage across in front of such vehicles, and any vehicle permitted to turn to either right or left shall yield the right-of-way to all pedestrians who are proceeding on crosswalks in a direction authorized by the officer or traffic signal, and failure to yield such right-of-way shall be a violation of this section.

13-1303. **RIGHT-OF-WAY OF PEDESTRIANS WHEN AN INTERSECTION IS NOT REGULATED.**

1. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to

yield to a pedestrian crossing a roadway within a crosswalk when the pedestrian is upon the half of the roadway which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

2. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

3. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake or pass such stopped vehicle.

13-1304. **CROSSING AT OTHER THAN CROSSWALKS.**

1. Every pedestrian crossing a roadway at any point other than within a marked or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles on the roadway.

2. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead crossing has been provided shall yield the right-of-way to all vehicles on the roadway.

3. Between adjacent intersections at which traffic-control devices are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

4. No pedestrians shall cross a roadway other than on a crosswalk in any business district in the City of Harwood.

5. No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

13-1305. **PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK.** The provisions of N.D. Cent. Code § 39-10-32 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1306. **BLIND PERSONS RIGHT-OF-WAY.** The driver of any vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog.

Blind pedestrians, when carrying a white cane or stick, by holding out horizontally such white cane or stick in the direction they desire to travel over any crosswalks on any street, avenue, alley or other public highway in the City of Harwood, shall have the right-of-way over all other pedestrians and vehicles, except those vehicles as are defined in Section 13-0101(1)(a), except that all blind persons at intersections governed by traffic control devices shall be subject to the same rules as apply to other pedestrians.

Any driver of a vehicle, operator of a motor-driven vehicle, or pedestrian who is not blind who approaches or comes in contact with a blind person on the streets of the City of Harwood, or any blind person carrying such white cane or stick, shall, if conditions of traffic or safety of any blind person shall require, immediately stop and take such precaution before proceeding, as may be necessary to avoid accident or injury or be necessary to protect the blind person.

The words "blind pedestrian" or "blind person" as used in this section shall mean persons wholly or so partially blind as to require mechanical, human, or other aid in the use of the streets of the City of Harwood.

13-1307. **OBEDIENCE OF PEDESTRIANS TO RAILROAD SIGNALS.** The provisions of N.D. Cent. Code § 39-10-33.5 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1308. **PEDESTRIANS WALKING ALONG ROADWAYS.**

1. Where a sidewalk is provided and its use practicable, it shall be unlawful for any pedestrian to walk along or upon an adjacent roadway.

2. Where a sidewalk is not available, any pedestrian walking along or upon a highway shall walk only on a shoulder facing traffic which may approach from the opposite direction, as far as practicable from the edge of the roadway.

3. Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to the outside edge of the roadway,

and, if on a two-way roadway, shall walk only the left side of the roadway.

4. Except as otherwise provided for in this Chapter, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

13-1309. **PEDESTRIANS SOLICITING RIDES OR BUSINESS.** The provisions of N.D. Cent. Code § 39-10-34 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1310. **BLOCKING TRAFFIC OF PEDESTRIANS.** Vehicles shall not stop on cross walk so as to interfere with the passage of pedestrians.

13-1311. **PEDESTRIANS NOT TO OBSTRUCT TRAFFIC.** No persons shall singly or together stand in any street, or any footwalk, sidewalk, or alley, in the City of Harwood so as to obstruct the free passage for pedestrians or vehicles; and any person or persons so standing shall move immediately and cease to obstruct said walk or street after being requested to do so by any peace officer.

13-1312. **RIGHT TO CROSS STREET SAFELY: INTERFERENCE WITH VEHICLES.** The roadbeds of streets are primarily intended for vehicles, but pedestrians have the right to cross them in safety, and all drivers of vehicles shall exercise all proper care not to injure pedestrians. The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk. Pedestrians when crossing a street shall not carelessly or maliciously interfere with the passing of vehicles.

13-1313. **PLAYING ON STREETS PROHIBITED.** No person shall play upon the streets, avenues or alleys or public grounds of the City of Harwood except on such grounds or streets, as may be provided for such purposes, and this section shall apply to both business and residential areas.

13-1314. **DRIVERS TO EXERCISE DUE CARE.** Notwithstanding the foregoing provisions of this Chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

CHAPTER 13-14

ACCIDENTS

SECTIONS:

13-1401. Immediate Notice of Accidents.
13-1402. Written Report of Accident to City.
13-1403. Written Report of an Accident to State.
13-1404. Officer to Report.
13-1405. When Driver Unable to Report.
13-1406. Garages to Report.
13-1407. False Reports.

13-1401. **IMMEDIATE NOTICE OF ACCIDENTS.** The provisions of N.D. Cent. Code § 39-08-09 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1402. **WRITTEN REPORT OF ACCIDENT TO CITY.** The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person or accident shall forward a written report of such accident to the Sheriff of Cass County on forms provided by Cass County. The provisions of this section shall not be applicable when the accident has been investigated at the scene by a peace officer while such officer was present thereat.

13-1403. **WRITTEN REPORT OF AN ACCIDENT TO STATE.** The provisions of N.D. Cent. Code § 39-08-09 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1404. **OFFICER TO REPORT.** Every law enforcement officer who in the regular course of duty investigates a motor vehicle accident either at the time or at the scene of the accident or thereafter by interviewing the participants, or witnesses, shall promptly make a written report. Said officer upon completion of investigation shall issue and affix to each of the cars involved a "damaged car release sticker".

13-1405. **WHEN DRIVER UNABLE TO REPORT.** The provisions of N.D. Cent. Code § 39-08-11 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1406. **GARAGES TO REPORT.** The person in charge of any garage or repair shop located in the City of Harwood to which is brought any motor vehicle which shows evidence of being involved in

a reportable accident as provided in Section 13-0801 of this title or of being struck by any bullet, if said vehicle does not have a "damaged car release sticker" attached thereto or if said vehicle has a bullet hole therein, shall immediately make a report to the Sheriff of Cass County. Said report shall include the license plate number and the name and address of owner or operator of such vehicle. If said vehicle does have a "damaged car release sticker" attached thereto no report is necessary. Stickers on such vehicles are not to be removed until repairs are completed but must be removed before the vehicle is released to the owner or operator.

13-1407. **FALSE REPORTS.** No person shall give information reports as required in Sections 13-1401, 13-1404, 13-1406, 13-0704 and 13-0705 of this Chapter knowing or having reason to believe that such information is false.

CHAPTER 13-15

EQUIPMENT OF VEHICLES - SIZE, WEIGHT, HEIGHT AND LOAD RESTRICTIONS

SECTIONS:

13-1501. Lamp or flag on projecting load.
13-1502. Restrictions as to tire equipment.
13-1503. Horns and warning devices.
13-1504. Brakes on Motor Vehicles and Motorcycles: Requirements.
13-1505. Mirrors.
13-1506. Windshields Must Be Unobstructed and Equipped With Wipers.
13-1507. Mufflers Required.
13-1508. Vehicle to be Constructed to Prevent Sifting or Leaking Loads.
13-1509. Lamps and Lights must Conform to State Law.
13-1510. Front and Rear Lamps to be Lighted at Certain Times.
13-1511. Arrest for Improperly Adjusted Headlamps - Certificate of Conformance a Defense.
13-1512. Spot Lamps: Limitations on Number and Use.
13-1513. Trailers and Towed Vehicles.
13-1514. Trailer to be Equipped with Reflectors or Tail Lights.
13-1515. Flashing Lights, Prohibition.
13-1516. Red, Green or Yellow Lights Visible from in Front of Vehicle Prohibited: Exceptions.
13-1517. Proper Equipment Required on Vehicles.
13-1518. General Regulations as to Loading of Motor Vehicles.
13-1519. Size, Weight and Load Restrictions of Vehicles Operated within the City.
13-1520. Regulating Movement of Tractors, Heavy Vehicles and Long Vehicles on Pavement.
13-1521. Permits for Excessive Size and Weight.
13-1522. Trucks Prohibited on Certain Streets - Truck Routes Established - Maps and Signs Required.
13-1523. Restricted Use of Streets and Highways.
13-1524. Peace Officer or Other Agent may Weigh Vehicle and Require Removal of Excess Load.
Subsections:
13-1524.1. Impounding Overweight Vehicle
13-1524.2. Impounding Receipt - Information
13-1524.3. Impounding Notice - Perishables
13-1524.4. Civil Complaint
13-1524.5. Voluntary Statement of Extraordinary Road Use Fee Charges
13-1524.6. Mailing Complaint
13-1524.7. Cash Bond - Holding
13-1524.8. Trial - Charges

13-1524.9. Payment of Charges - Confiscation - Sale
13-1524.10 Payment - Effect
13-1524.11 Proceeds of Sale
13-1525. Restrictions Upon the Use of Streets by Certain Vehicles.
13-1526. Load Restrictions Upon Vehicles Using Certain Highways.
13-1527. Modification of Motor Vehicle.

13-1501. **LAMP OR FLAG ON PROJECTING LOAD.** The provisions of N.D. Cent. Code § 39-21-13 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1502. **RESTRICTIONS AS TO TIRE EQUIPMENT.** Every tire on a vehicle moved on any street or highway within the City of Harwood shall have rubber on its entire traction surface.

No tire, wheel, or track on a vehicle moved on a street or highway shall have on its periphery any block, stud, flange, pleat or spike, or any other protuberance of any material other than rubber, or other material approved by the City Engineer, which projects beyond the tread of the traction surface of the tire, wheel or track, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the street or highway, and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions. It shall also be permissible to use, from October 15 to April 15, pneumatic tires which have metal studs which do not project more than one-sixteenth of an inch beyond the tread of the traction surface of the tire.

13-1503. **HORNS AND WARNING DEVICES.** Every motor vehicle when operative upon a street or highway shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet; and it shall be unlawful except as otherwise provided in this section, for any vehicle equipped with, or for any person to use upon a vehicle a siren, exhaust, compression or plug whistle or for any person, at any time, to use a horn otherwise and as a reasonable warning, or to make unnecessary or unreasonable loud or harsh sounds by means of a horn or other warning device.

Every law enforcement or fire department, and fire patrol vehicle and every ambulance used for emergency calls shall be equipped with a bell, siren or an exhaust whistle.

13-1504. **BRAKES ON MOTOR VEHICLES AND MOTORCYCLES: REQUIREMENTS.** Every motor vehicle, when operated upon a street, shall be equipped with brakes adequate to control the movement and to stop and to hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels, and shall be so constructed that no part which is liable to failure shall be common to the two. A motorcycle need be equipped with only one brake. All such brakes shall be maintained in good working order.

13-1505. **MIRRORS.** The provisions of N.D. Cent. Code § 39-21-38 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1506. **WINDSHIELDS MUST BE UNOBSTRUCTED AND EQUIPPED WITH WIPERS.**

1. No person shall drive a motor vehicle with any sign, poster, frost, condensation, or other nontransparent material upon or in place of the front windshield, sidewings, side or rear windows of such motor vehicle, other than a certificate or other paper required to be so displayed by law.

2. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

3. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

13-1507. **MUFFLERS REQUIRED. PREVENTION OF NOISE.** The provisions of N.D. Cent. Code § 39-21-37 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1508. **VEHICLE TO BE CONSTRUCTED TO PREVENT SIFTING OR LEAKING LOADS.** The provisions of N.D. Cent. Code § 39-21-44.1 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1509. **LAMPS AND LIGHTS MUST CONFORM TO STATE LAW.** It shall be unlawful for any person to operate any motor vehicle within the City of Harwood, unless such motor vehicle is properly equipped with lamps and lights as prescribed by the laws of this State.

13-1510. **FRONT AND REAR LAMPS TO BE LIGHTED AT CERTAIN TIMES.** The provisions of N.D. Cent. Code § 39-21-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1511. **ARREST FOR IMPROPERLY ADJUSTED HEADLAMPS - CERTIFICATE OF CONFORMANCE A DEFENSE.** The provisions of N.D. Cent. Code § 39-21-24 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-1512. **SPOT LAMPS: LIMITATIONS ON NUMBER AND USE.** Any motor vehicle may be equipped with not to exceed two spot lamps. Every lighted spot lamp shall be aimed and used upon approaching another vehicle so that no part of the beam will be directed to the left of the center of the street or highway nor more than one hundred feet ahead of the vehicle.

13-1513. **TRAILERS AND TOWED VEHICLES.** The drawbar or other connection between any two vehicles, one of which is towing or drawing the other on a street or highway, shall not exceed fifteen feet in length from any vehicle to the other. Whenever such connection consists of a chain, rope, or cable, there shall be displayed upon such connection a red flag or other signal or cloth not less than twelve inches square.

13-1514. **TRAILER TO BE EQUIPPED WITH REFLECTORS OR TAIL LIGHTS.** No trailer or semi-trailer shall be transported or operated in the City of Harwood unless it is equipped with approved reflectors not less than three inches in diameter or with tail lights.

13-1515. **FLASHING LIGHTS, PROHIBITION.** Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow removal equipment or on any vehicle as a means of indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing.

13-1516. **RED, GREEN OR YELLOW LIGHTS VISIBLE FROM IN FRONT OF VEHICLE PROHIBITED: EXCEPTIONS.** No person shall drive or move any vehicle upon any street or highway with any red, green or yellow light thereon visible from directly in front thereof. This section shall not apply to vehicles defined in Section 13-0101 and Section 13-0916.

13-1517. **PROPER EQUIPMENT REQUIRED ON VEHICLES.** It is an infraction, which shall subject the violator to the penalties set forth in Section 1-0211, for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not

contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or the North Dakota Century Code, or which is equipped in any manner in violation of this chapter, or any provision of the North Dakota Century Code, or for any person to do any act forbidden or fail to perform any act required under this chapter, or under the North Dakota Century Code.

13-1518. **GENERAL REGULATIONS AS TO LOADING OF MOTOR VEHICLES.** No person shall:

1. Ride or stand upon the running board or exterior of any moving vehicle. This provision shall not apply to police officers, firemen or other City employees, while in performance of their duties.

2. Drive a vehicle containing more passengers than the seating capacity of such vehicle.

3. Allow any part of the body to protrude beyond the limits of the vehicle while the vehicle is in motion, except to signal change of direction as provided in this title.

4. Drive a vehicle loaded with iron or other material likely to produce an annoying sound without using proper precautions to minimize such annoying sound.

13-1519. **SIZE, WEIGHT AND LOAD RESTRICTIONS OF VEHICLES OPERATED WITHIN THE CITY.** Provisions of N.D. Cent. Code §§ 39-12-04 and 39-12-05.3 and all subsequent amendments thereto shall be and hereby are incorporated by reference in this ordinance, except where more stringent limitations are set forth otherwise in these ordinances, or in a resolution adopted by the City Council. Such resolution, in addition to the size and weight restrictions, may set forth other restrictions and guidelines, as well as a fee schedule for permits for overweight and oversized vehicles.

13-1520. **REGULATING MOVEMENT OF TRACTORS, HEAVY VEHICLES, AND LONG VEHICLES ON PAVEMENT.** No person, firm or corporation shall move, or cause to be moved, over the paved streets, sidewalks, crosswalks, culverts, bridges and viaducts, within the City of Harwood, any motor vehicle or object drawn by motor vehicle which is in violation of Sections 13-1502,13-1519 through 13-1523, or in violation of any restrictions set forth in a resolution passed by the City Council pursuant to Section 13-1519, except under the direction and written permission of the City Council of the City of Harwood or the City Agent, as provided in Section 13-1521. Any violators shall pay or cause to be paid to said City, upon demand, any and all damages done to the paving, sidewalks, crosswalks, culverts, bridges and viaducts.

13-1521. **PERMITS FOR EXCESSIVE SIZE AND WEIGHT.** The City Agent may, under such policies as the City may establish by resolution or ordinance, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle of a size and weight exceeding the maximum specified in this title upon any street or highway under the jurisdiction of and for the maintenance of which the body granting permit is responsible. Every such permit shall be issued for a single trip and may designate the route to be traversed and contain other restrictions or conditions deemed necessary by the body granting such permit. Every such permit shall be carried in the vehicle to which it refers and shall be opened to inspection by any peace officer, and it shall be unlawful for any person to violate any of the terms and conditions of such special permit. The fees for such special permit shall be established by resolution by the City Council.

13-1522. **TRUCKS PROHIBITED ON CERTAIN STREETS - TRUCK ROUTES ESTABLISHED - MAPS AND SIGNS REQUIRED.**

1. No truck or commercial vehicle exceeding in weight ten thousand pounds per axle, or total weight of eighty thousand pounds shall be operated in the City of Harwood, except upon truck routes designated as hereinafter provided in subsection 2 of this section; provided, that this ordinance shall not prohibit:

    a. Such vehicles from operating upon other City streets when delivering or picking up materials or merchandise, provided entrance or exit to or from such street is made at the nearest intersection; through streets as established elsewhere in the Harwood City Ordinances shall be considered as secondary truck routes and must be used in preference to other streets whenever possible.

    b. The operation of trucks owned or operated by the City of Harwood; trucks owned or operated by power companies and telephone companies franchised in Harwood or trucks owned and operated by any contractor or material supplier while under contract with the City and engaged in the repair, maintenance or construction of streets, street improvements or street utilities within the City.

    c. The operation of class A emergency vehicles, as defined in the traffic ordinances of the City of Harwood, upon any street in the City.

d. Trucks making more than one delivery on any one trip may take the most direct route between one delivery and the next.

2. Truck routes shall be established by resolution of the City Council, after notice and hearing. The notice shall be by one publication in the official newspaper of the City at least 10 days prior to the date of the hearing. The truck routes, as established by the City Council, shall be stated in the resolution and on an official map which shall be kept and maintained in the office of the City Auditor and shall be available for public inspection.

3. On each street or avenue designated as a truck route in accordance with subsection 2 above, such street or avenue shall be posted with appropriate signs.

13-1523. **RESTRICTED USE OF STREETS AND HIGHWAYS.** Notwithstanding Sections 13-1519 through 13-1522, the City Agent of the City of Harwood may prohibit the operation of vehicles upon any street or highway or impose restrictions as to the weight of vehicles when operated upon any street or highway under the jurisdiction of and for the maintenance of which the City is responsible, whenever any said street or highway by reason of deterioration, stage of construction, rain, snow or other conditions could be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights allowed thereon reduced. The City Agent shall have the authority to impose such restrictions at any time when in the discretion of the City Agent such limitations are needed. The prohibitions or restrictions and the lifting thereof shall be done in a writing which shall be filed with the City Auditor and mailed to all City Council members. In addition, the City Agent, when exercising any such authority, shall erect or cause to be erected and maintained, signs designating the weight restrictions or prohibition of use at each end of that portion of any street or highway affected by the restrictions or prohibitions, and the restrictions or prohibitions shall not be effective until or unless such signs are erected and maintained. Once such restrictions are in place and posted, such restrictions or prohibitions shall remain in effect until lifted by the City Agent, or until they are removed or altered by action of the City Council of the City of Harwood. The City Council shall also have the authority, by resolution, to prohibit the use, or place weight restrictions on any street or highway under the jurisdiction of the City, which prohibitions and restrictions shall be designated by appropriate signs placed at each end of that portion of any street or highway affected thereby.

In addition, the City, will set weight restrictions by resolution which will automatically apply City-wide when Cass County imposes

its spring weight limit road restrictions. These restrictions shall be posted at the main entrances to the City at the discretion of the City Agent.

13-1524. **PEACE OFFICER OR OTHER AGENT MAY WEIGH VEHICLE AND REQUIRE REMOVAL OF EXCESS LOAD.** Any peace officer or designated agent of the City or City-designated personnel having reason to believe that the weight or size of a vehicle and load is unlawful is authorized to weigh or measure the same, either by means of portable or stationary scales, and may require that such vehicle be driven to the nearest scale. The officer or other designated person may then require the driver to unload immediately such portion of the load as may be necessary to decrease the gross weight of such vehicle to the maximum therefor by such authority.

13-1524.1. **IMPOUNDING OVERWEIGHT VEHICLE.** Any vehicle found to have been moved or used upon any highway, street, alley or other public way within the City at a weight exceeding the limitations as specified in any ordinance or resolution adopted by the City may be impounded by any peace officer, designated agent of City, or City-designated personnel and taken to a warehouse, garage or other facility for storage.

13-1524.2. **IMPOUNDING RECEIPT - INFORMATION.** A receipt must be given by the peace officer or other person impounding the vehicle, to the driver or person in charge of such vehicle. Such receipt must identify as nearly as possible, the owner of the vehicle and cargo, the driver or person in charge of such vehicle, the cargo, the place vehicle is to be stored during impoundment, the weight of the loaded vehicle and the name and address of the impounding officer. Information as to the owner of the vehicle and cargo must be obtained from the driver or person in charge of the vehicle.

13-1524.3. **IMPOUNDING NOTICE - PERISHABLES.** The impounding officer shall notify the owner or owners, if they can be found, by wire or telephone, of the impoundment and charges involved. If the cargo consists of perishables, the impounding officer shall use reasonable diligence in assisting the operator or owner in finding suitable storage facilities for such perishables, but all risk of loss or damage to such perishables must be upon the owner, operator, or lessee of such vehicle.

13-1524.4. **CIVIL COMPLAINT.** The City Attorney of the City shall, if no settlement is made under the next succeeding section, immediately prepare and file a civil complaint on behalf of the City for the purpose of recovering charges for the extraordinary use of the highways, streets, alleys or other public roadways of the City.

13-1524.5. **VOLUNTARY SETTLEMENT OF EXTRAORDINARY ROAD USE FEE CHARGES.** Before the complaint is issued pursuant to the preceding section, the owner, or the owner's driver or agent, may voluntarily pay the amount of the extraordinary road use fee, or may provide proof of surety coverage to ensure payment of the extraordinary road use fee, provided under Section 13-1524.7, plus any towing or storage costs. Any settlement, whether made by the owner, or the owner's driver or agent, must be presumed to be of a voluntary nature. A peace officer or a peace officer's designee is authorized to receive the settlement payment on behalf of the City. The extraordinary road use fees must be remitted to the City Auditor's office.

13-1524.6. **MAILING COMPLAINT.** A copy of the complaint must be served upon the driver or person in charge of the vehicle and a copy must be sent by registered or certified mail to the owner of the vehicle, if the address of such owner is known.

13-1524.7. **CASH BOND - HOLDING.** Unless a cash bond is furnished in an amount sufficient to cover the charge for extraordinary use of highways, streets, alleys or other public roadway, as provided in the next succeeding section, together with the costs which may be collectible under any subsequent settlement made pursuant to this section, said vehicle must be held until a trial of the case can be held before the district court.

13-1524.8. **TRIAL - CHARGES.** At the trial of the action, the court shall hear testimony concerning the facts, and if it is found that such vehicle or vehicles were moved upon the highways, streets, alleys or other public roadways of the City at a weight in excess of the limitations imposed under the provisions of this section, charges for the extraordinary use of the highways, streets, alleys, or roadways must be assessed as follows:

1. The storage charges and costs of the action must be assessed; and

2. An additional charge must be assessed as follows:

    a. One cent per pound (453.59 grams) for each pound (453.59 grams) of weight in excess of the legal limit, up to three thousand pounds (1,360.77 kilograms) of excess weight;

    b. Four cents per pound (453.59 grams) for each pound (453.59 grams) which exceeds the legal limit by over three thousand bounds (1,360.77 kilograms) but

is less than five thousand pounds (2,267.96 kilograms) of excess;

c. Eight cents per pound (453.59 grams) for each pound (453.59 grams) which exceeds the legal limit by over five thousand pounds (2,267.96 kilograms), but is not more than ten thousand pounds (4,535.92 kilograms);

d. Ten cents per pound (453.59 grams) for each pound (453.59 grams) which exceeds the legal limit by over ten thousand pounds (4,535.92 kilograms) but is less than twenty thousand pounds (9,071.84 kilograms) of excess weight; and

e. Twenty cents per pound (453.59 grams) for each pound (453.59 grams) which exceeds the legal limit by more than twenty thousand pounds (9,071.84 kilograms).

13-1524.9. **PAYMENT OF CHARGES - CONFISCATION - SALE.** If the charges and costs as provided in the preceding section are not paid immediately from a cash bond previously posted or other cash payment, the judge shall order the vehicle confiscated and sold by the sheriff of the county at a public sale to the highest bidder and the proceeds applied to the payment of the charges and costs assessed under the provisions of this section.

13-1524.10. **PAYMENT - EFFECT.** The payment of charges may not be construed as a payment for the future use of highways, streets, alleys and other public roadways of the City by vehicles carrying excess loads.

13-1524.11. **PROCEEDS OF SALE.** The proceeds of sale must be applied first to the payment of the costs of the proceeding, including any allowable attorney's and witness fees and costs, and next to the payment of the charges assessed. Such charges must be remitted to the City Auditor to be credited to the City general fund. The balance of the proceeds of any sale after the payment of costs and charges must be paid over by the sheriff to the person entitled thereto as determined by the court, or must be deposited with the clerk of the court for such payment.

13-1525. **RESTRICTIONS UPON THE USE OF STREETS BY CERTAIN VEHICLES.** The City Auditor or police department is hereby authorized, subject to a resolution of approval by the City Council, to determine and designate those heavily traveled streets upon which shall be prohibited the use of the roadway by bicycles,

horsedrawn vehicles or other non-motorized traffic and shall erect appropriate signs giving notice thereof. A disobedience of any restriction and any sign so posted shall be a violation of this title.

13-1526. **LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN HIGHWAYS.** When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amount specified on said sign at any time upon any of the streets or parts of streets so posted.

13-1527. **MODIFICATION OF MOTOR VEHICLE.** Provisions of N.D. Cent. Code § 39-21-45.1 and all subsequent amendments shall be and hereby are incorporated by reference in this ordinance.

CHAPTER 13-16

PARKING

SECTIONS:

13-1601. Parallel Parking and Diagonal Parking.
13-1602. Obedience to Angle Parking Signs or Markings.
13-1603. Stopping, Standing or Parking Prohibited in Specified Places.
13-1604. Parking of Trucks, Delivery Cars and Service Cars Regulated.
13-1605. Loading and Unloading Regulations for Trucks.
13-1606. Winter Parking.
13-1607. City Council May Designate Ten Minute Parking Areas.
13-1608. Removal of Vehicles After Major Storm.
13-1609. Parking in Area Designated for Mobility Impaired Without Certificate.
13-1610. Motor Vehicle Left Unattended, Brakes to be Set.
13-1611. Unlawful to Park on Private Property.
13-1612. Restricted Parking in Recreation Areas.
13-1613. Parking Not to Obstruct Traffic.
13-1614. Parking for Certain Purposes Prohibited.
13-1615. No Stopping, Standing or Parking Near Hazardous or Congested Places.
13-1616. Stopping, Standing and Parking of Buses and Taxi Cabs Regulated.
13-1617. Restricted Use of Bus and Taxi Cab Stands.
13-1618. Parking Prohibited During Certain Hours on Certain Streets.
13-1619. Parking Prohibited on Sidewalks or Boulevards.
13-1620. Parking Signs Required.
13-1621. Application of Chapter.
13-1622. Parking Privileges for Mobility Impaired - Certificate Revocation.
13-1623. Regulations Not Exclusive.
13-1624. Penalty.
13-1625. Delinquent Tickets -- Impoundment of Vehicle.

13-1601. **PARALLEL PARKING AND DIAGONAL PARKING.** The owner, driver or person operating or in charge of any vehicle shall not permit the same to stand or be parked upon any street where there are adjacent curbs unless such vehicle is parallel with the street and the inside wheels not to exceed 18 inches from the right-hand curb or street line. Vehicles must be so parked as to economize parking space for all cases and be so placed as to form, where possible, continuous lines. The City may, by signs, markers, paint

or other devices, limit the parking area, and no vehicle shall be parked wholly or partly outside the indicated and permitted parking area; provided that all vehicles shall be parked diagonally to the curb or any street or avenue if said street or avenue is posted or marked for said diagonal parking.

Where parking is permitted on one-way street the above regulations shall apply except that vehicles parking on the left side of the one-way street shall park parallel to the street and with the wheels on the left side of the automobile not to exceed 18 inches from the left curb or street line.

13-1602. **OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS.** On those streets which have been signed or marked by the City for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of roadway indicated by such sign or marking.

13-1603. **STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.** No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic and in compliance with the law or the direction of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;

2. Within an intersection;

3. In front of a public or private driveway;

4. Within ten feet of a fire hydrant;

5. On a crosswalk;

6. Within ten feet of a crosswalk at an intersection, except on through streets where it shall not be within 20 feet of a crosswalk;

7. Within 20 feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of the roadway;

8. Between a safety zone and the adjacent curb or within 15 feet of points immediately opposite the ends of a safety zone, unless the State Highway Department or local authority indicates a different length by signs or markings;

9. Within 15 feet of the nearest rail of a railroad crossing;

10. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance when proper sign posted;

11. Along side or opposite any street excavation or obstruction when stopping, standing of parking would obstruct traffic;

12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

13. Upon any bridge or other elevated structure upon a street or highway or within a street or highway tunnel;

14. At any place where official signs prohibit stopping.

13-1604. **PARKING OF TRUCKS, TRUCK TRACTOR, OR SEMI-TRAILER - REGULATED; AND PROHIBITION OF DOLLYING DOWN OF SEMI-TRAILERS.**

1. No truck, truck tractor, or semi-trailer shall be parked on any street, boulevard, or alley in any residential district of the City of Harwood for a longer period than one hour; nor shall any such vehicle be parked overnight on any street, avenue, boulevard, or alley in any residential district of the City, or within 100 feet of any residence, condominium, or apartment building; provided, however, that such vehicles loading or unloading cargo may be parked on the streets or alleys long enough to complete their loading or unloading; and provided further that such restrictions shall not apply to any vehicle in use on any repair, maintenance, or construction project in progress on any such street, boulevard, or alley.

2. No semi-trailer shall be dollied down, or detached from the truck tractor on any street, avenue, boulevard, or alley in any district of the City of Harwood.

13-1605. **LOADING AND UNLOADING REGULATIONS FOR TRUCKS.** A vehicle may be allowed to double-park for the purpose of loading or discharging passengers, or for unloading freight when there is no alley for such purpose and no other parking space available and the freight to be unloaded is of heavy or bulky nature, but only for such length of time as is absolutely necessary for such loading and unloading, except that no merchandise or freight pick-ups or deliveries whatsoever shall be made from doubleparked vehicles between the hours of 4:00 p.m. and 6:00 p.m. on any day except on

Sundays and legal holidays and no vehicle shall double-park for such purposes between such hours.

Any person owning, driving, operating or having under his control any vehicle shall not permit the same to stand or be parked in any alley except while loading or unloading freight or merchandise. If any vehicle is left parked or standing in any alley during such loading or unloading operations it shall be located so that it does not block the alley and as close to the edge of the alley as possible.

If the alley is so narrow that it will be blocked even though the vehicle engaged in the loading or unloading operation is parked so close to the edge of the alley as possible, then, in that event such vehicle shall not be left unattended at any time.

It shall be unlawful to load or unload automobile transport trailers on any street, boulevard or public property of the City of Harwood.

It shall be unlawful to park or permit any vehicle to stand so that it is backed against the curb except when actually loading or unloading freight or merchandise, and if the vehicle is a semi-trailer combination, the motor vehicle or tractor unit thereof must stand parallel to the curb and be headed in the direction of the traffic. No vehicle shall stand so backed up that it interferes with or interrupts the passage of traffic.

In any case it shall be unlawful to load or unload freight or merchandise from a semi-trailer backed into the curb unless the owner operator of the unit involved shall have first secured a written permit to do so from the City; such a written permit must also be secured before any semi-trailer unit may be driven across the center line of the street in order to back the same into a loading stall, and such permit may be issued for reasonable periods of time, not to exceed one year.

It shall be unlawful for any person, firm or corporation to drive or permit to be driven any semi-trailer or truck of more than one ton capacity by backing the same into a curb, unless such person, firm or corporation shall provide a person or arrange with some person, in addition to the driver, to act as flagman during all operations, and said flagman shall station himself in such a position so that he can warn both pedestrians and moving traffic and so that the driver can back the vehicle in a safe manner.

13-1606. **WINTER PARKING.** Parking is prohibited on all public streets and avenues within the city limits of the City of Harwood between the hours of 12:00 midnight through 9:00 a.m. between

August 15 and May 31. Further, and subject to the provisions of Section 13-1625 of these ordinances (with the exception of the provisions of that ordinance which deals with pre-impoundment notice and hearing), vehicles which have not been removed within twenty-four (24) hours of the issuance of a notice of violation may be impounded.

Source: Ord. 18-0111, Sec. 1 (2004); Ord 2007-1, Sec. 1 (2007); Ord. 2009-8, Sec. 1 (2009)

13-1607. **CITY COUNCIL MAY DESIGNATE TEN MINUTE PARKING AREAS.** The City Council may designate ten minute parking areas in the business or residential district of the City, and may also extend, change or adjust any of the present ten minute zone now in existence. Each ten minute period during which any vehicle is parked in such area shall constitute a separate and additional violation provided such areas shall be properly posted or marked.

13-1608. **REMOVAL OF VEHICLES AFTER MAJOR STORM.** No person shall park or leave a vehicle upon any roadway or highway during or subsequent to a major winter storm so as to hinder or obstruct snow removal activities. Any police officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found in violation of this section, and the owner thereof shall be liable for all costs of impoundment and, in addition, shall be punished by a fine of not more than $25.

13-1609. **PARKING IN AREA DESIGNATED FOR MOBILITY IMPAIRED WITHOUT CERTIFICATE.** No person may stop, stand, or park any vehicle in any designated parking space that is reserved for the mobility impaired unless the vehicle displays a mobility impaired identification certificate issued by the state to a mobility impaired person. Provided, a vehicle may temporarily use a space reserved for mobility impaired persons without a mobility impaired certificate for the purpose of loading and unloading mobility impaired persons. Violation of this section is an infraction for which a fine up to the limit set by the state may be imposed by the City.

13-1610. **MOTOR VEHICLE LEFT UNATTENDED, BRAKES TO BE SET.** No person having control or charge of a motor vehicle shall allow such vehicle to stand on any street or alley unattended without first effectively setting the brakes thereon, and, when standing upon any grade, shall turn the front wheels of such vehicle to the curb or side of the street or highway.

13-1611. **UNLAWFUL TO PARK ON PRIVATE PROPERTY.** It shall be unlawful to trespass upon, drive or park a motor vehicle or trailer or vehicle of any kind upon private property within the city limits of the City of Harwood, where there is displayed permission in writing from the owner or lessee thereof.

13-1612. **RESTRICTED PARKING IN RECREATION AREAS.** Vehicles shall not be parked upon any public street or alley within any playground, swimming pool, tennis courts or any recreation areas, when said street, alley or area is designated or posted against parking.

13-1613. **PARKING NOT TO OBSTRUCT TRAFFIC.** No person shall park any vehicle upon a street, other than an alley in such manner or under such conditions as to leave available less than 15 feet of the width of the roadway for free movement of vehicular traffic.

13-1614. **PARKING FOR CERTAIN PURPOSES PROHIBITED.** No person shall park a vehicle upon a roadway for the principal purpose of:

1. Displaying such vehicle for sale;

2. Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

13-1615. **NO STOPPING, STANDING OR PARKING NEAR HAZARDOUS OR CONGESTED PLACES.** The City Council may determine and designate, by having signs placed, places not exceeding one hundred feet in length in which the stopping, standing or parking would create an especially hazardous condition or would cause unusual delay to traffic.

When official signs are erected at hazardous or congested places as authorized herein no person shall stop, stand, or park a vehicle in any such designated place.

The City Council may determine the location of passenger and freight loading zones and shall place and maintain appropriate signs indicating the same.

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone and then only for a period long enough to complete such loading.

No persons shall stop, stand or park a vehicle for any purpose or length of time other than for expeditious loading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone. In no case shall the stop for unloading and loading of materials be longer than that needed to complete such loading and unloading.

13-1616. **STOPPING, STANDING AND PARKING OF BUSES AND TAXI CABS REGULATED.** The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein. The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in case of an emergency.

The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than 18 inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

The operator of a taxi cab shall not stand or park such vehicle upon any street at any place other than in a taxi cab stand so designated as provided herein. This provision shall not prevent the operator of a taxi cab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

13-1617. **RESTRICTED USE OF BUS AND TAXI CAB STANDS.** No person shall stop, stand or park a vehicle other than a bus in a bus stop or other than a taxi cab in a taxi cab stand when any such stop or stand has been officially designated and appropriately assigned except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus.

13-1618 **PARKING PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS.** When signs are erected in each block giving notice thereof, no person shall park a vehicle between the hours specified on the sign, on any day except Sundays, and public holidays upon any of the streets so posted.

13-1619. **PARKING PROHIBITED ON SIDEWALKS OR BOULEVARDS.** No person shall stop, stand or park any automobile, truck or other

vehicle, whether attended or unattended, on a sidewalk or on any boulevard or berm between the sidewalk and the roadway in the City of Harwood.

13-1620. **PARKING SIGNS REQUIRED.** With the exception of Section 13-1606, whenever by this title, or any ordinance of this City any parking time limit is imposed or parking is prohibited on designated streets it shall be the duty of the City to erect appropriate signs giving notice thereof and no such regulations shall be effective unless such signs are erected and in place at the time of any alleged offense subject to specific exceptions as stated in this title.

Source: Ord. 18-0111, Sec. 2 (2004).

13-1621. **APPLICATION OF CHAPTER.** The provisions of this Chapter prohibiting the standing or parking of a vehicle shall apply at all time or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer of official traffic-control device.

13-1622. **PARKING PRIVILEGES FOR MOBILITY IMPAIRED - CERTIFICATE - REVOCATION.** The provisions of Section 39-01-15 of the North Dakota Century Code, and all subsequent amendments thereto, shall be and are hereby incorporated by reference in this ordinance.

13-1623. **REGULATIONS NOT EXCLUSIVE.** The provisions of this Chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

13-1624. **PENALTY.** Violations of the provisions of this chapter shall be a fine of Eight Dollars ($8), unless a specific section provides for another penalty. If the parking violation is not paid within five (5) days of the issuance of the ticket, the penalty shall be Ten Dollars ($10).

13-1625. **DELINQUENT TICKETS -- IMPOUNDMENT OF VEHICLE.** Any vehicle found unoccupied on any public way, public property or property to which the general public has a right of access, and against the registered owner of which vehicle there are three (3) or more unsettled traffic violation notices, warrants for such violations, or parking tickets, is subject to the following procedure:

1. Notice of Pending Impoundment. The City Auditor, or his designated agent, shall mail written notice to the last known address of the registered owner of the vehicle (as determined by the address on file with the Registrar of Motor Vehicles of the State of North Dakota, or other similarly situated person for vehicles licensed in a state other than North Dakota) of the fact that there are three (3) or more unsettled traffic violation notices, warrants for such violations, or parking tickets outstanding, and of the pending impoundment of the vehicle. Additionally, this written notice must include a description of the right of the registered owner to request a hearing on the propriety of the impoundment, as set forth in subsection 3 below. Notice is hereby deemed effective and complete by being placed in the mail.

2. Impoundment. After five (5) days from mailing the notice of pending impoundment, and unless the owner of the vehicle has complied with subsection 3(A) herein, the vehicle may be towed and impounded. Unless the Judge of the Municipal Court of the City of Harwood determines the impoundment to be unwarranted, as provided in subsection 3(B) herein, all impoundment and storage fees and costs shall be paid prior to the release of the vehicle. Within twenty-four (24) hours after the vehicle is impounded, the City Auditor, or a person designated by the City Auditor, shall mail written notice to the last known address of the registered owner of the vehicle (as determined by the address on file with the Registrar of Motor Vehicles of the State of North Dakota, or other similarly situated person for vehicles licensed in a state other than North Dakota) of the fact that the vehicle has been impounded, the reasons why the vehicle has been impounded, the method for releasing the vehicle, and where and when the person may obtain a hearing to contest the propriety of the impoundment of the vehicle. Notice is hereby deemed effective and complete by being placed in the mail.

3. Hearing to Determine Propriety of Impoundment.

   A. Prior to Impoundment. Any person receiving a notice pursuant to subsection 1 of this section may request a hearing on the propriety of the pending impoundment of his vehicle within five (5) days from the date of the mailing of the notice. The scope of such a hearing shall be limited to whether or not the owner of the vehicle has the minimum number of unsettled traffic violation notices,

warrants for such violations, or parking tickets as set forth herein. The hearing shall not be determinative of, nor adjudicate, any citations issued to the vehicle or its owner. The hearing shall be conducted by the Judge of the Municipal Court of Harwood, North Dakota.

B. Subsequent to Impoundment. Any person whose vehicle has been impounded may request a hearing on the propriety of the impoundment of the vehicle. The hearing shall not be determinative of, nor adjudicate, any citations issued to the vehicle or its owner. The hearing must be requested within fifteen (15) days after the vehicle is impounded. The hearing shall be conducted by the Judge of Municipal Court of Harwood, North Dakota.

4. Release of Impounded Vehicle. A vehicle impounded pursuant to this section shall be released to the registered owner, or any other authorized person, only upon the occurrence of one of the following circumstances:

A. The Judge of Municipal Court of Harwood, North Dakota, determines, in a hearing pursuant to subsection 3 above, that the impoundment is not warranted; or

B. The registered owner of the vehicle, or other authorized person, pays all outstanding fines, fees, penalties, costs and surcharges for all outstanding or otherwise unsettled traffic violations and parking tickets, and either pays or posts bond pending a hearing as described in subsection 3 above, all fees and costs relating to the impoundment of the vehicle, as set forth in the schedule contained below; or

C. The registered owner of the vehicle, or other authorized person, posts bond or deposits collateral to ensure appearance in Municipal Court to answer for each violation, and either pays or posts bond pending a hearing as described in subsection 3 above, all fees and costs relating to the impoundment of the vehicle as set forth in the schedule contained below.

5. Schedule of Fees. The following fees shall be applicable for purposes of this section:

A. Impoundment Fees. The fee for the impoundment of a vehicle shall be an additional Twenty-five and no/100 Dollars ($25.00).

B. The owner, or any other authorized person of a vehicle shall be responsible for all costs of towing and/or storage of a vehicle.

CHAPTER 13-17

RAILROAD CARS AND CROSSINGS

SECTIONS:

13-1701. Crossing Intersections of Railroads.
13-1702. Obedience to Signal Indicating Approach of Train.
13-1703. All Vehicles Must Stop at Certain Railroad Grade Crossings.
13-1704. Certain Vehicles Must Stop at All Railroad Grade Crossings.

13-1701. **CROSSING INTERSECTIONS OF RAILROADS.** In crossing an intersection of a street or the intersection of a street by a railroad right-of-way the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the street unless such right half is obstructed or impassable or unless there are two lanes of traffic going in the same direction.

13-1702. **OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN.**

1. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirement shall apply when:

   a. A clearly visible electric or mechanical device gives warning of the immediate approach of a railroad train;

   b. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

   c. A railroad train within approximately 1,320 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or

   d. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

2. No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. No person shall drive any vehicle past any human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.

13-1703. **ALL VEHICLES MUST STOP AT CERTAIN RAILROAD GRADE CROSSINGS.** The City Council, with respect to highways under its jurisdiction, may designate particularly dangerous highway grade crossings of railroads and cause to be erected stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care.

13-1704. **CERTAIN VEHICLES MUST STOP AT ALL RAILROAD GRADE CROSSINGS.**

1. The driver of a bus carrying passengers, or of any school bus carrying any school child, or of any vehicle carrying any chlorine, empty or loaded cargo tank vehicles used to transport dangerous articles or any liquid having a flash point below 200 degrees F., cargo tank vehicles transporting a commodity having a temperature above its flash point at the time of loading, certain cargo tank vehicles transporting commodities under special permits issued by the hazardous materials regulations board, and every motor vehicle which must have the following placards: "Explosives," "Poison," "Flammable Oxidizers," "Compressed Gas," "Corrosives," "Flammable Gas," "Radioactive," or "Dangerous," before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossing, and the driver shall not manually shift gears while crossing the track or tracks.

2. No stop need be made at any such crossing at which traffic is controlled by a peace officer. For the

purposes of this Section, a United States marshal shall be considered a peace officer.

CHAPTER 13-18

BICYCLES

SECTIONS:

13-1801. Effective Regulations.
13-1802. License Application.
13-1803. Issuance of License.
13-1804. Attachment of License Plate.
13-1805. Inspection of Bicycles.
13-1806. Renewal of License.
13-1807. Transfer of Ownership.
13-1808. Rental Agencies.
13-1809. Bicycle Dealers.
13-1810. Traffic Laws Apply to Persons Riding Bicycle or Tricycle.
13-1811. Traffic - Control Devices: Obedience to.
13-1812. Riding on Bicycles.
13-1813. Riding on Roadways and Bicycle Paths.
13-1814. Speed.
13-1815. Emerging from Alley or Driveway.
13-1816. Carrying Articles.
13-1817. Parking.
13-1818. Riding on Sidewalks.
13-1819. Lamps and Other Equipment on Bicycles.
13-1820. Bicycles May be Impounded if Operated in Violation of Ordinances: Impound Fee.
13-1821. Bicycle Accidents.

13-1801. **EFFECTIVE REGULATIONS.**

1. It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this title.

2. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any provisions of this title.

3. These regulations are applicable to bicycles and tricycles shall apply whenever a bicycle or tricycle is operated upon any street or highway or upon any path set aside for the exclusive use of bicycles or tricycles subject to those exceptions stated herein.

13-1802. **LICENSE APPLICATION.** Application for bicycle license and license plate shall be made upon a form provided by the City and shall be made to the City Auditor. A license fee of one dollar ($1.00) shall be paid to the City before each license or renewal thereof is granted.

13-1803. **ISSUANCE OF LICENSE.**

1. The City Auditor, or his delegated agent, upon receiving proper application therefor is authorized to issue a bicycle license which shall be a permanent license. A renewal of the license is only required if the license plate is lost or becomes illegible. A registration card shall be issued with each license.

2. The City Auditor, or his delegated agent, shall not issue a license for any bicycle when he knows or has reasonable ground to believe that the applicant is not the owner of or entitled to the possession of such bicycle.

3. The City Auditor, or his delegated agent, shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued, and the number of the frame of the bicycle for which issued, and a record of all bicycle license fees collected.

13-1804. **ATTACHMENT OF LICENSE PLATE.**

1. The City Auditor, or his delegated agent, upon issuing a bicycle license shall also issue a license plate bearing the license number assigned to the bicycle, the name of the city, and the date of issuance;

2. The City Auditor, or his delegated agent, shall cause such license plate to be firmly attached to the frame of the bicycle for which issued in such position as to be plainly visible; and

3. No person shall remove the license plate from a bicycle during the period for which issued except in the event the bicycle is dismantled and no longer operated upon any street in the city.

13-1805. **INSPECTION OF BICYCLES.** The City Auditor, or his delegated agent, may inspect each bicycle before licensing the same and shall refuse a license for any bicycle which he determines is in an unsafe mechanical condition.

13-1806. **RENEWAL OF LICENSE.** If the license plate is lost or becomes illegible, the license may be renewed upon application and payment of the same fee as upon an application.

13-1807. **TRANSFER OF OWNERSHIP.** Upon the sale or other transfer of a licensed bicycle, it shall be the responsibility of the purchaser to make proper application to the City Auditor or his designated agent for change in the ownership registration. Said change in record to be made without payment of any additional fee. In all cases, the license plate shall remain with the bicycle to which it was originally assigned.

13-1808. **RENTAL AGENCIES.** A rental agency shall not rent or offer any bicycle for rent unless the bicycle is licensed and a license plate is attached thereto as provided therein. Such bicycle is equipped with the lamps and other equipment required in this chapter.

13-1809. **BICYCLE DEALERS.** Every person engaged in the business of buying or selling new or second-hand bicycles shall make a report to the City Auditor or his designated agent of every bicycle purchased or sold by such dealer, giving the name and address of the person from whom purchased or to whom sold, a description of such bicycle by name or make, the frame number thereof, and the number of the license plate, if any, found thereon.

13-1810. **TRAFFIC LAWS APPLY TO PERSONS RIDING BICYCLE OR TRICYCLE.** Every person riding a bicycle or tricycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state, declaring rules of the road applicable to vehicle or by the traffic ordinances of this city applicable to the driver of a vehicle, except as to special regulations in this chapter and exempt as to those provisions of laws and ordinances which by their nature have no application.

13-1811. **TRAFFIC - CONTROL DEVICES: OBEDIENCE TO.**

1. Any person operating a bicycle or tricycle shall obey the instructions of the official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer;

2. Whenever authorized signs are erected indicating that no right or left or "U" turn is permitted, no person operating a bicycle or tricycle shall disobey the direction of any sign, except where such person dismounts from the bicycle or tricycle to make any such turn, in

which event such person shall then obey the regulations applicable to pedestrians.

13-1812. **RIDING ON BICYCLES.**

1. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto;

2. No bicycle shall be used to carry more persons at one time than the number which it is designed or equipped.

13-1813. **RIDING ON ROADWAYS AND BICYCLE PATHS.**

1. Every person operating a bicycle or tricycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction;

2. Persons riding bicycles or tricycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles or tricycles;

3. Wherever a usable path for bicycles or tricycles has been provided adjacent to a roadway, bicycle or tricycle riders shall use such path and shall not use the roadway.

13-1814. **SPEED.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

13-1815. **EMERGING FROM ALLEY OR DRIVEWAY.** The operator of a bicycle emerging from an alley, driveway or building, upon approaching a sidewalk or the pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway, shall yield right-of-way to all vehicles approaching on said roadway.

13-1816. **CARRYING ARTICLES.** No person operating a bicycle shall carry a package, bundle or article which prevents the rider from keeping at least one hand upon the handlebars, or carry any package, bundle or article which prevents the forward vision of the operator.

13-1817. **PARKING.** No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

13-1818. **RIDING ON SIDEWALKS.**

1. No person shall ride a bicycle upon a sidewalk within a business district;

2. No person 12 or more years of age shall ride any bicycle upon any sidewalk in any district, except those persons engaged in delivering newspapers may ride their bicycle upon a sidewalk outside the business district during working hours only in order to complete delivery of their newspapers;

3. No person shall ride a bicycle upon a sidewalk which is within or part of an underpass;

4. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before over-taking and passing such pedestrian.

13-1819. **LAMPS AND OTHER EQUIPMENT ON BICYCLES.**

1. Every bicycle when in use at night time shall be equipped with a lamp on the front of which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the Motor Vehicle Department. A lamp emitting red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.

2. Every bicycle shall be equipped with a brake which will enable the operator make the braked wheel skid on dry, level and clean pavement.

13-1820. **BICYCLES MAY BE IMPOUNDED IF OPERATED IN VIOLATION OF ORDINANCES: IMPOUND FEE.** Any peace officer may impound and retain possession of any bicycle not licensed or otherwise operated in violation of any of the ordinances of the City of Harwood and retain possession of the same until the license provided for herein is obtained by the owner of the said bicycle and until all impound fees and fines have been paid.

An impound fee of twenty-five cents per week is hereby established.

13-1821. **BICYCLE ACCIDENTS.** A driver of a bicycle involved in an accident with another bicycle, motor vehicle or with a pedestrian shall immediately stop such bicycle, motor vehicle or

with a pedestrian shall immediately stop such bicycle at the scene of the accident and shall give his name, age and address to other person or persons involved. He shall also give immediate notice of the accident and shall file a report regarding the accident. In the event said accident is investigated at the scene, then it is not necessary for the driver to file an individual report.

CHAPTER 13-19

TRANSPORTATION BY MOTOR VEHICLES OF EXPLOSIVES WITHIN CITY

SECTIONS:

13-1901. Application.
13-1902. Declared a Hazard.
13-1903. Permit Required
13-1904. Conditions of Permit.
13-1905. Type of Escorts Permitted.
13-1906. Charge for Escort Vehicles or Drivers.

13-1901. **APPLICATION.** This chapter shall apply to all owners and operators of motor vehicles transporting any explosives, munitions, dynamite, ammunition (except small arms ammunition and shot-gun shells), gunpowder, T.N.T., dynamite caps or detonating caps in the City of Harwood.

13-1902. **DECLARED A HAZARD.** The transportation by motor vehicle in the City of Harwood of any of the commodities or things mentioned in Section 13-1901 of this chapter, is hereby declared to be a menace and a hazard to the safety of the people of the City of Harwood and their property.

13-1903. **PERMIT REQUIRED.** It shall be unlawful for any person, partnership, association or corporation who owns, leases or operates any motor vehicle hauling any of the commodities or things mentioned in Section 13-1901 of this chapter to use or operate the same for the transportation of such commodities or things upon the streets of the City of Harwood without first having obtained a permit to do so from the City Auditor of the City of Harwood. A violation of any of the conditions or provisions of the permit shall be a violation of this chapter.

13-1904. **CONDITIONS OF PERMIT.** A permit shall be required for each vehicle but not for each separate movement through the City and all permits issued shall contain the following conditions and provisions:

1. The route through the City of Harwood which will be followed;

2. The time of the movement of hauling and the type of escort to be provided;

3. The name of the driver of the vehicle, a description of the vehicle, and the name of the owner or lessor of the vehicle.

13-1905. **TYPE OF ESCORTS PERMITTED.** Each and every motor vehicle transporting any of the things or commodities mentioned in Section 13-1901 of this chapter on the streets of the City of Harwood must, after obtaining a permit as above required be escorted and protected both front and rear by an official highway department, sheriff's, police or fire department vehicle driven by:

1. A North Dakota State Highway Patrolman; or

2. A police officer of the Harwood, North Dakota; or

3. A fireman from the City of Harwood, North Dakota; or

4. A sheriff or authorized deputy from Cass County, North Dakota.

13-1906. **CHARGE FOR ESCORT VEHICLES OR DRIVERS.** If Harwood Police Department or Fire Department vehicles or drivers are to be used as escorts, a fee of $5.00 for each vehicle, or each escort driver, or each vehicle and escort driver furnished shall first be paid, provided that in no case shall any one truck, or semi-trailer be required to pay more than a total of $10.00 per trip through the City for escort vehicles and escort drivers.

CHAPTER 13-20

SNOWMOBILES

SECTIONS:

13-2001. Definitions.
13-2002. General Rules of Operation.
13-2003. Severability.

13-2001. **DEFINITIONS.**

1. Snowmobile. For purposes of this Chapter "snowmobile" shall mean a self-propelled vehicle designed for travel on snow or ice or natural terrains steered by wheels, skis or runners.

2. All-Terrain Vehicle. For purposes of this chapter, the definition of "all-terrain vehicle" as set forth in Section 39-29-01 of the North Dakota Century Code, and all subsequent amendments thereto, shall be and are hereby incorporated by reference in this ordinance.

13-2002 **GENERAL RULES OF OPERATION.** The provisions Sections 39-24-09 and 39-29-09 of the North Dakota Century Code, and all subsequent amendments thereto, relating to the operation of snowmobiles and all-terrain vehicles, shall be and are hereby incorporated by reference in this ordinance. These provisions shall apply to the operation of snowmobiles and all-terrain vehicles within city limits. Further, snowmobiles and all-terrain vehicles are permitted to be operated within the city limits of the City of Harwood only from the residence of the registered owner to the city limits, taking the shortest route practicable.

13-2003. **SEVERABILITY.** Invalidity of any section clause, sentence or any provision of this chapter shall not affect the validity of any part of this ordinance which can be given effect without such invalid part or parts.

CHAPTER 13-21

ARREST PROCEDURE

SECTIONS:

13-2101. Halting Person for Violating Traffic Regulations: Duty of Officer Halting.
13-2102. Hearing - Time - Promise of Defendant to Appear - Failure to Appear Penalty.
13-2103. Offenses Under Which Person Halted May Not be Entitled to Release Upon Promise to Appear.
13-2104. Arrest of Non-resident Traffic Violator.
13-2105. Fines and Forfeitures, Disposition of.
13-2106. Tagging Motor Vehicles.
13-2107. Reports Kept by Municipal Judge.
13-2108. When Copy of Citation Shall be Deemed a Lawful Complaint.
13-2109. Failure to Comply with Traffic Citation Attached to Parked Vehicle.
13-2110. Presumption in Reference to Illegal Parking.
13-2111. When Warrant to be Issued.

13-2101. **HALTING PERSON FOR VIOLATING TRAFFIC REGULATIONS: DUTY OF OFFICER HALTING.** The provisions of N.D. Cent. Code § 39-07-07 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-2102. **HEARING - TIME - PROMISE OF DEFENDANT TO APPEAR - FAILURE TO APPEAR - PENALTY.** The provisions of N.D. Cent. Code § 39-07-08 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-2103. **OFFENSES UNDER WHICH PERSON HALTED MAY NOT BE ENTITLED TO RELEASE UPON PROMISE TO APPEAR.** The provisions of N.D. Cent. Code § 39-07-09 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-2104. **ARREST OF NON-RESIDENT TRAFFIC VIOLATOR.** A police officer at the scene of a traffic accident may arrest without a warrant any driver of a vehicle who is a non-resident of this State and who is involved in the accident when based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of this title in connection with the accident, and if the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in Court.

Whenever any person is arrested under the provisions of this section, he shall be taken without unnecessary delay before the proper magistrate.

13-2105. **FINES AND FORFEITURES, DISPOSITION OF.** All fines or forfeitures collected upon conviction, or upon forfeiture of bail of any person charged with the violation of any provision of this title shall be disposed of as provided by law. The municipal judge shall file with the City Auditor a schedule in writing, subscribed by the municipal judge, indicating the amount of bail fixed by such municipal judge for the release of persons arrested or charged with any violation of this title and based on the offense charged, which schedule shall be applicable for the bail to be furnished in his absence from the municipal court, and any person who pays or delivers such bail to the arresting officer or the appropriate law enforcement agency, but during the absence of the municipal judge in municipal court, shall be immediately released from custody. Provided, that the payment of delivery of such bail shall be immediately released from custody. Provided, that the payment of delivery of such bail shall be a waiver of any defect or irregularity or any previous defect or irregularity in such proceedings, including the arrest of such person; and provided further, that the municipal judge may in all cases where he is present in municipal court fix bail in such amount whereupon such conditions as may be provided by law, and within his discretion and without regard to the bail schedule provided and applicable in his absence from municipal court.

13-2106. **TAGGING MOTOR VEHICLES.** Any peace officer who finds any motor vehicle located within the City in a place or in a condition which is at the time in violation of this title, may affix a tag to any prominent portion of such motor vehicle giving notice in writing requiring the owner or person in possession thereof to appear before the municipal judge at a time as provided in Section 13-2101 of this chapter. This shall constitute legal and sufficient notice requiring the owner or person in possession of said motor vehicle to appear before the municipal judge at the time or within the time specified on said tag. In the event the owner or person in possession of said motor vehicle shall fail to respond to said notice to appear before the municipal judge, at the time or within the time specified on such tag, and he may be arrested at any subsequent time and prosecuted for violation of this section.

13-2107. **REPORTS KEPT BY MUNICIPAL JUDGE.** The municipal judge shall keep and file a report of every case in which a person is charged with violation of any provision of this title.

13-2108. **WHEN COPY OF CITATION SHALL BE DEEMED A LAWFUL COMPLAINT.** In the event the form of citation includes information and is sworn to as required under the general laws of this State in respect to a complaint charging commission of the offense alleged in said citation to have been committed, then such citation when filed with a Court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under this title.

13-2109. **FAILURE TO COMPLY WITH TRAFFIC CITATION ATTACHED TO PARKED VEHICLE.** If a violator on the restrictions of stopping, standing or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to such motor vehicle within a period of five days, the peace officer shall send to the owner of the motor vehicle to which the traffic citation was fixed, a letter informing him of the violation and warning him in the event such letter is disregarded for a period of five days, a warrant of arrest will be issued.

13-2110. **PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.** In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle, was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

13-2111. **WHEN WARRANT TO BE ISSUED.** In the event any person fails to comply with a traffic citation given to such person or attached to a vehicle or fails to make appearance pursuant to a summons directing an appearance in the municipal court, or if any person fails to or refuses to deposit bail as required and within the time permitted by this chapter, the municipal judge may issue, upon application, a warrant for his arrest.

CHAPTER 13-22

CLASSIFICATION AND DISPOSITION OF TRAFFIC OFFENSES.

SECTIONS:

13-2201. Definitions.
13-2202. Judicial Procedure - Criminal.
13-2203. Classification of Traffic Offenses.
13-2204. Traffic Violations Non-Criminal - Exceptions - Procedures.
13-2205. Notification of Parent or Guardian of Juvenile Traffic Offenders.
13-2206. Administrative Hearing - Procedures - Appeals - State Orders.
13-2207. Failure to Appear, Pay Statutory Fee, Post Bond - Procedure.
13-2208. Offenses Excepted.
13-2209. Amount of Statutory Fee.

13-2201. **DEFINITIONS.** The provisions of N.D. Cent. Code § 39-06.1-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-2202. **JUDICIAL PROCEDURE - CRIMINAL.** Disposition of traffic offenses designated as criminal, herein Section 13-2203, shall be in accordance with Title 29 North Dakota Century Code, JUDICIAL PROCEDURE, CRIMINAL, with appeals therefrom to the District Court or County Courts of Increased Jurisdiction in accordance with the statute providing therefore.

13-2203. **CLASSIFICATION OF TRAFFIC OFFENSES.** Violation of any city ordinance regulating traffic and providing penalties for Violation thereof are classified as criminal if contained in Chapter 13-07 or which are listed as criminal traffic offenses in Section 39-06.1-10 of the North Dakota Century Code. If there is a conflict between Chapter 13-07 and Section 39-06.1-10 of the North Dakota Century Code, the Century Code provision shall prevail. All other traffic violations for which the municipal court has jurisdiction shall be deemed to be non-criminal offenses unless a separate penalty clause providing criminal penalties is provided in the ordinance establishing the offense.

13-2204. **TRAFFIC VIOLATIONS NON-CRIMINAL - EXCEPTIONS - PROCEDURES.** The provisions of N.D. Cent. Code § 39-06.1-02 and all subsequent amendments shall be and are hereby incorporated by reference and all sections of the North Dakota Century Code

referred to therein and all subsequent amendments thereto shall be and are hereby incorporated by reference in this ordinance.

13-2205. **NOTIFICATION OF PARENT OR GUARDIAN OF JUVENILE TRAFFIC OFFENDERS.** The provisions of N.D. Cent. Code § 39-06.1-02.1 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

13-2206. **ADMINISTRATIVE HEARING - PROCEDURES - APPEALS - STATE ORDERS.** The provisions of North Dakota Century Code § 39-06.1-03 and all subsequent amendments shall be and are hereby incorporated by reference and all sections of the North Dakota Century Code referred to therein and all subsequent amendments thereto shall be and are hereby incorporated by reference in this ordinance.

13-2207. **FAILURE TO APPEAR, PAY STATUTORY FEE, POST BOND - PROCEDURE.** The provisions of N.D. Cent. Code § 39-06.1-04 and all subsequent amendments shall be and are hereby incorporated by reference and all sections of the North Dakota Century Code referred to therein and all subsequent amendments thereto shall be and are hereby incorporated by reference in this ordinance.

13-2208. **OFFENSES EXCEPTED.** The provisions of N.D. Cent. Code § 39-06.1-05 and all subsequent amendments shall be and are hereby incorporated by reference and all sections of the North Dakota Century Code referred to therein and all subsequent amendments thereto shall be and are hereby incorporated by reference in this ordinance.

13-2209. **AMOUNT OF STATUTORY FEE.** The provisions of N.D. Cent. Code § 39-06.1-06 and all subsequent amendments shall be and are hereby incorporated by reference and all sections of the North Dakota Century Code referred to therein and all subsequent amendments thereto shall be and are hereby incorporated by reference in this ordinance.

TITLE XIV.

FRANCHISES

CHAPTERS:

14-01. Cable Television Franchise.

CHAPTER 14-01

CABLE TELEVISION FRANCHISE.

SECTIONS:

14-0101. Title.
14-0102. Definitions.
14-0103. Grant of Authority and General Provisions.
14-0104. Application for New Franchise.
14-0105. Construction and Operations Standards.
14-0106. System Provisions and Public Services.
14-0107. Operation and Administration Provisions.
14-0108. Revocation, Abandonment, and Sale or Transfer.
14-0109. Miscellaneous Provisions.

14-0101. **TITLE.** Ordinance shall be known and cited as the Cable Communications Regulatory Ordinance.

14-0102. **DEFINITIONS.** For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.

1. "Basic Cable Service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7).

2. "Cable Programming Service" means any Video Programming provided over a Cable System, regardless of service tier other than:

   Video Programming carried on the Basic Service Tier;

   Video Programming offered on a pay-per-channel or pay-per-program basis; or

   A combination of multiple channels of pay-per-channel or pay-per-program Video Programming offered on a multiplexed or time-shifted basis so long as the combined service:

consists of commonly-identified Video Programming;

and is not bundled with any regulated tier of service.

Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(l)(2) and 47 C.F.R. 76.901(b) (1993).

3. "Cable Service" means the one-way transmission to Subscribers of Video Programming, or other programming service, and Subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.

4. "Cable System" or "System" shall have the meaning ascribed to it in federal law.

5. "Council" means the Harwood, North Dakota, City Council.

6. "Franchise" means an initial authorization, or renewal thereof issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System or other MVPD facility.

7. "Franchise Area" means the area within the legal boundaries of the Grantor.

8. "Grantee" is the Person which is granted a Franchise in City pursuant to this Ordinance, its agents and employees, lawful successors, transferees or assignees.

9. "Grantor" is the City of Harwood.

10. "Gross Revenue" means only that monthly revenue net of bad debt received from Basic Cable Service and Premium Pay Services such as HBO. The Term "Gross Revenues" shall not include any other revenue billed or received by the Grantee including, franchise fees, late fees, any fees itemized and passed through as a result of franchise imposed requirements, or any taxes or fees on services furnished by Grantee imposed directly on any Subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.

11. Multichannel Video Program Distributor" or "MVPD" means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, an OVS provider, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.

12. "Open Video Services" or "OVS" means any video programming Services provided to any person by a Franchisee certified by the FCC to operate an Open Video System pursuant to Section 47 U.S.C. 573, as may be amended, regardless of the Facilities used.

13. "Pay Television" means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.

14. "Person" is any person, firm, partnership, association, corporation, company, or other legal entity.

15. "Standard Installation" means any residential installation which can be completed using a drop of one hundred fifty (150) feet or less.

16. "Street" means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by Grantor.

17. "Subscriber" means any Person who lawfully receives Cable Service.

18. "Video Programming" means programming provided by, or generally considered comparable to programming provided by a television broadcast station.

SECTION 14-0103. **GRANT OF AUTHORITY AND GENERAL PROVISIONS.**

1. Franchise Required. It shall be unlawful for any Person to construct, operate or maintain a Cable System or MVPD facility or to provide Cable Service, Video Programming or other MVPD services, including OVS, in the Grantor without a Franchise authorizing the same, unless applicable federal or State law prohibits the Grantor's enforcement of such a requirement.

2. Grant of Franchise. Any Franchise that is granted in City shall be subject to the terms and conditions contained herein.

3. Grant of Nonexclusive Authority.

   a. A Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the Streets, public ways and public places now laid out or dedicated and all extensions thereof; and additions thereto in Franchise Area, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in Franchise Area of a Cable System.

   b. A Franchise shall be nonexclusive, and Grantor reserves the right to grant a similar use of said Streets to any MVPD at any time, provided, however, that all Franchises shall contain the same terms and conditions as this Franchise in order that one MVPD is not granted a competitive advantage over another. In the event an MVPD commences operation without a Franchise or is granted a Franchise to operate by the Grantor, the terms and conditions of which do not comply with this Ordinance, other Grantees shall have the right either (i) to opt in to the competitor's Franchise by providing ten (10) days prior written notice to the Grantor; or (ii) to petition the Grantor for modifications to its Franchise, in which case the Grantor shall work in good faith with the affected Grantee(s) to review and adopt modifications which the Grantee(s) deem necessary, review and approval by Grantor shall not be unreasonably denied.

   c. Before granting an additional franchise, the Grantor shall give written notice to all Grantees of any new application, identifying the applicant for such additional Franchise and providing at least thirty (30) days prior notice of the date, time, and place at which the Grantor shall consider and/or determine whether such additional Franchise should be granted.

   d. Every Franchise shall apply to the entire service area of the Grantor, as it exists now or may later be configured.

e. In the event Grantor grants one or more additional Franchises or one or more non-franchised MVPD's commence providing Cable Service in the Grantor, a Grantee shall have the right to terminate or reduce the term of this Franchise in its sole discretion.

f. Neither City nor Grantee(s) may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any other ordinance and this Franchise, the Franchise shall control.

4. Franchise Term. A Franchise shall be in effect for a period of up to thirteen (13) years from the effective date of the agreement, unless renewed, revoked, or terminated sooner as herein provided.

5. Territorial Area Involved. A Franchise shall be granted for the corporate boundaries of Grantor, as it exists from time to time. In the event of annexation by Grantor, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee(s) shall not be required to extend service beyond its present System boundaries unless there is a minimum of twenty-five (25) homes per cable mile as measured from the last fiber node or terminating amplifier.

6. Written Notice. All notices, reports, or demands required to be given in writing under this Ordinance shall be deemed to be given when delivered personally to any officer of Grantee or Grantor's Administrator of this Ordinance as specified in a Franchise.

SECTION 14-0104. **APPLICATION FOR NEW FRANCHISE.**

1. An application for an initial Franchise to provide Video Programming shall be in writing on a form provided by the City which shall contain where applicable:

a. Applicant name and business address of Applicant.

b. A statement as to the proposed Franchise Area, and whether Applicant holds an existing authorization to access the Rights-of-Way in the City and a map of the areas where such authorization exists if for an area other than the entire City.

c. Resume of prior history of Applicant, including the legal, technical, and financial expertise of Applicant in the Cable Service field.

d. List of officers, directors, and managing employees of Applicant and resumes of each.

e. A proposed construction and schedule to provide Cable Service or Video Programming to Subscribers.

f. A certificate of insurance consistent with the requirements of this Ordinance.

g. A description of the Cable System the Applicant intends to build, including its capacity, the types of equipment proposed for use and the Cable Services or Video Programming which will be offered.

h. A description of the financial qualifications of the Applicant to construct and operate the System including a balance sheet, income statement sources and uses of funds statement and pro forma projections for at least three (3) years of operation subsequent to System completion.

i. A proposed plan for Public, Educational, and Government Access Channels, including funding, facilities, and equipment and capacity on the System to be dedicated for educational and governmental use.

2. The Initial Franchise Application may be evaluated according to the following criteria, and approved within one-hundred eighty (180) days after City deems the Application is complete. In the event Applicant is already authorized to occupy the Rights-of-Way, the time for review and approval will be ninety (90) days.

a. The evidence of legal, technical and financial ability required in the Applicant's proposal will be such as to assure the ability to complete the entire System within a reasonable time from the date the Franchise is granted. The City will also consider the Applicant's ability to operate the System and provide the necessary Cable Services or Video Programming in compliance with the terms of this Ordinance.

b. The City Administrator or designee shall prepare a report and make his or her recommendations respecting such application to the City Council

c. A public hearing shall be set prior to any grant of a Franchise, at a time and date approved by the City Council. Within thirty (30) days after the close of the hearing, the City Council shall make a decision based upon the evidence received at the hearing as to whether or not the Franchise(s) should be granted, and, if granted subject to what conditions.

d. The City may consider any additional information that it deems applicable.

SECTION 14-0105. **CONSTRUCTION AND OPERATIONS STANDARDS.**

1. Conditions on Street Use.

a. A Grantee shall obtain all required permits from Grantor before commencing any construction upgrade or extension of the System.

b. The Grantor shall impose no permit fees upon a Grantee.

c. If at any time during the period of this Franchise Grantor shall elect to alter, or change the grade or location of any Street, alley or other public way, a Grantee shall, at its own expense, upon reasonable notice by Grantor, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System. If Grantor reimburses other occupants of the Street, a Grantee shall be likewise reimbursed.

d. A Grantee shall, on request of any Person holding a moving permit issued by Grantor, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the Person requesting the same, and a Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.

e. A Grantee shall have the authority to trim any trees upon and overhanging the Streets, alleys, sidewalks, or public easements of Grantor so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

f. Nothing contained in this Ordinance shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

g. In areas where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground. In any area where one or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

h. A Grantee shall at all times construct and operate its System in accordance with applicable FCC Technical specifications.

i. In the event that the use of any part of the system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such systems or property has been installed in any street or public place without complying with the requirements of this Ordinance, or the rights granted hereunder have been terminated, cancelled or have expired, Grantee shall, subject to the rights of the City to acquire the system as specified in Section 14-0105.1.(j) herein, promptly remove from the streets, or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the City.

j. Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee in place, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.

k. All cable and passive equipment for cable television reception service installed by Grantee at a subscriber's location shall remain the property of Grantee and Grantee shall have the right to remove said cable and equipment. Upon termination of service to any subscriber, the

Grantee shall promptly remove all its above ground facilities and equipment from the premises of such subscriber upon his request.

l. No poles or other wire-holding structures shall be erected by the Grantee without prior approval of the designated representative of the City Council with regard to locations, height, type or any other pertinent aspect, which approval shall not be unreasonably withheld. However, no locations of any pole or wire holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the City Council or its designated representative determines that the public convenience would be enhanced thereby.

m. Where poles or other wire-holding structures already existing in use in serving the City are available for use by Grantee, but it does not make arrangements for such use, the City Council may require the Grantee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the Grantee are just and reasonable.

n. Where the City or a public utility serving the City desires to make use of poles or other wire-holding structures of the Grantee but agreement therefore with the Grantee cannot be reached, the City Council may require the Grantee to permit such use for such consideration as is just and reasonable and upon such terms as the Council determines the use would enhance the public convenience and would not unduly interfere with the Grantee's operations.

o. Grantee shall at all times maintain on file with the City Auditor a schedule setting forth all rates and charges to be made to subscribers for basic cable service, including installation charges.

p. During the term hereof, the City may regulate rates only if authorized to do so by Federal Communications Commission regulations and then such regulation shall only be in accordance with the provisions of such regulations.

SECTION 14-0106. **SYSTEM PROVISIONS AND PUBLIC SERVICES.**

1. Operation and Maintenance of System. A Grantee shall render effective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible.

2. Service to Schools and City. A Grantee shall, subject to the line extension requirements of Section 14-0103.5 herein, provide one (1) Drop and one (1) outlet of Basic Cable Service at no cost to public and parochial elementary and secondary schools in City, and one (1)City building to be mutually agreed upon by City and a Grantee.

3. PEG Channel. The Grantee shall allocate one channel to the City as a public, educational or governmental access channel. Until such time as the city files a written request with Grantee for full-time use of the channel, Grantee shall have the right to use that portion of the channel capacity that is not being used by the City. Grantee shall have a reasonable period of time after notification to vacate its use of the channel. Grantee shall assist the City in obtaining the necessary licenses and frequency clearance to enable the City to use said channel.

4. Emergency Use. In the case of any emergency or disaster, a Grantee shall, upon request of the City Council, make available its facilities to the City for emergency use. A Grantee shall comply with the mergandy alert requirements of federal law.

5. Lockout Device. Upon the request of a Subscriber, Grantee shall provide by sale or lease a Lockout Device.

SECTION 14-0107. **OPERATION AND ADMINISTRATION PROVISIONS.**

1. Indemnification of Grantor.

   a. A Grantee shall indemnify, defend, and hold harmless Grantor, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise of a Franchise granted pursuant to this Ordinance, except claims covered by worker's compensation insurance or any claims arising from or related to Grantor's negligence. Nothing in this Ordinance relieves a

Person from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, regarding, or changing the line of a Street or public place or with the construction or reconstruction of a sewer or water system.

b. In order for Grantor to assert its rights to be indemnified, defended, and held harmless, Grantor must with respect to each claim:

(1) Promptly notify a Grantee in writing of any claim or legal proceeding which gives rise to such right;

(2) Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and

(3) Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph two (2) above.

2. Insurance. A Grantee shall maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including contractual liability coverage, in protection of Grantor in its capacity as such. The policies of insurance shall be in the sum of not less than Three Hundred Thousand Dollars ($300,000) for personal injury or death of any one Person, and One Million Dollars ($1,000,000) for personal injury or death of two or more Persons in any one occurrence, Three Hundred Thousand Dollars ($300,000) for property damage to any one Person and One Million Dollars ($1,000,000) for property damage resulting from any one act or occurrence.

3. Franchise Fee.

a. A Grantee will pay Grantor a monthly franchise fee in the amount of three (3%) percent of Grantee's Gross Revenues.

b. The franchise fee shall be payable monthly, together with a brief report showing the basis for the computation.

c. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by Grantee is due.

SECTION 14-0108. **REVOCATION, ABANDONMENT, AND SALE OR TRANSFER.**

1. Grantor's Right to Revoke. Grantor reserves the right to revoke, terminate or cancel a Franchise, if after strictly following the procedures required by Section 14-0108.2 herein, it is determined that a Grantee has violated any material provision of its Franchise or this Ordinance and has failed to substantially cure said violation.

2. Procedures for Revocation.

a. Grantor shall provide a Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to substantially cure the violation or to provide adequate assurance of performance. Together with the notice required herein, Grantor shall provide Grantee with written findings of fact which are the basis of the revocation.

b. Grantee shall be provided the right to a public hearing affording due process before the Grantor Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in paragraph (a) above. Grantor shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

c. After the public hearing and upon written determination by Grantor to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.

d. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.

e. Upon satisfactory correction by Grantee of the violation upon which said notice was given, the initial notice shall become void.

3. Sale or Transfer of Franchise. No sale or transfer of a Franchise shall take place without the written approval of the Grantor, which approval shall not be unreasonably withheld. All of the rights, privileges, obligations, duties, and liabilities created by this Franchise shall pass to and be binding upon the successor or assign of a Grantee. Said approval shall not be required where a Grantee grants a security interest in its Franchise and assets to secure indebtedness.

SECTION 14-0109. **MISCELLANEOUS PROVISIONS.**

1. Franchise Renewal. Any renewal of a Franchise shall be done in accordance with applicable federal law.

2. Amendment of Franchise. A Grantee and Grantor may agree, from time to time, to amend a Franchise. Such written amendments may be made at any time.

3. Marketing. A Grantee shall have the right to conduct direct selling in the Franchise Area, including door to door sales, notwithstanding any peddler or solicitor laws or regulations to the contrary.

4. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, unenforceable or unconstitutional by a decision of any authority or court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance and the remainder shall remain in full force and effect.

TITLE XV.

HEALTH

CHAPTERS:

15-01. Board of Health and Health Officer.
15-02. Garbage (Source: Ord. 2007-4, Sec. 1 [2007])
15-03. Public Nuisances.

CHAPTER 15-01

BOARD OF HEALTH AND HEALTH OFFICER.

SECTIONS:

15-0101. Board of Health; Members; Powers; City Health Officer and Assistants.
15-0102. Duties of Health Officer, Assistants.
15-0103. City Health Officer, Assistants: Appointment.
15-0104. Regulations, Notice of.
15-0105. Power to Enter Building.

15-0101. **BOARD OF HEALTH; MEMBERS; POWERS; CITY HEALTH OFFICER AND ASSISTANTS.** The Board of Health shall be the City Council. The Board of Health shall have and exercise all powers under the law. The City Health Officer shall be the executive officer of such board. The City Council may appoint one or more assistant City Health Officers to aid the City Health Officer in the performance of his duty.

15-0102. **DUTIES OF HEALTH OFFICER, ASSISTANTS.** The City Health Officer and his assistants, if any, shall have the following powers and duties:

1. He shall see that the health ordinances of the City, the rules and regulations of the Board of Health and the regulations of the State Board of Health and the health laws of the State are fully complied with throughout his jurisdiction and he is charged with the strict enforcement of the same.

2. Make such recommendations to the Board of Health as to him shall appear necessary for the preservation of public health.

3. Exercise all other powers and duties granted or imposed under the laws of the State of North Dakota and the ordinances of the City of Harwood.

15-0103. **CITY HEALTH OFFICER, ASSISTANTS: APPOINTMENT.** The City Council shall appoint a City Health Officer for the City of Harwood in the manner and for the term provided for the appointment of other officers by the City Council. The City Council may appoint one or more Assistant City Health Officers for the City of Harwood, and if any such appointment is made, it shall be for the

term provided for the appointment of other officers by the City Council.

15-0104. **REGULATIONS: NOTICE OF.** The Board of Health shall give notice, as provided by the laws of the State of North Dakota, of all general orders and regulations made by such Board, by publishing the same in the official newspaper within the jurisdiction of the Board, which publication shall be deemed a legal notice to all persons.

15-0105. **POWER TO ENTER BUILDING.** Whenever the Health Officer of the City of Harwood, or his assistant, or the City Council shall deem it necessary for the preservation of the health of the inhabitants within the City, to enter any building within the City of Harwood for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth or cause of sickness, and shall be refused entrance, the City Health Officer or his assistant or any member of the City Council may make complaint under oath to the Municipal Judge of the City of Harwood, stating the facts in the case, so far as he has knowledge thereof. Such Municipal Judge shall promptly review such complaint and if such complaint is reasonably based in fact shall thereupon issue a writ of entry directed to the Chief of Police of the City of Harwood, sheriff or other peace officer, authorizing him to take sufficient aid and, accompanied by the City Health Officer or his assistant, or by at least one (1) member of the City Council of Harwood, between the hours of sunrise and sunset, enter said building to have such nuisances, sources of filth, or cause of sickness destroyed, removed or prevented under the direction of the City Health Officer or his assistant, or such member of the City Council as accompanied him.

CHAPTER 15-02

Source: Ord. 2007-4, Sec. 1 (2007)

GARBAGE

SECTIONS:

15-0201. Definition of Terms.
15-0202. Garbage Cans - Required - Capacity - Construction.
15-0203. Garbage to be Wrapped - Substances to be Placed in Garbage Can.
15-0204. Garbage Can to be Emptied: When.
15-0205. Who May Remove Contents of Garbage Can.
15-0206. Removal of Garbage Not to be Interfered With.
15-0207. Garbage Collection Fees.
15-0208. Collection by City Employees or by Contract.
15-0209. Garbage Contract - Advertising for Bids - Awarding -Bond Required.
15-0210. Garbage Not Meeting Specifications.
15-0211. Duty of City Sanitation Superintendent.
15-0212. Other Garbage Haulers.
15-0213. Enclosure for Garbage Vessels.
15-0214. Penalty.
15-0215. Separability of Provisions of Article.

15-0201. **DEFINITION OF TERMS.** The following definitions shall apply in the interpretation and enforcement of this chapter:

1. Garbage. The term "garbage" as herein used shall mean every refuse accumulation of animals, fruit, or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fruit, or vegetables.

2. Rubbish. The term "rubbish" as herein used shall mean all refuse not included in garbage and ashes. It includes tin cans, bottles, glass, scraps of iron, tin, wire, or other metals, rags, old clothing, unflattened paper containers, paper not used in preparation of food and drinks, old rubber, pieces of wood, boxes, barrels, crates, feathers, weeds, grass, lawn clippings, tree limbs, provided they are bundled or boxed and under two inches in diameter and not more than two feet in length, and similar refuse of every character collected or accumulated within the City of Kindred.

3. Ashes. Ashes are the residue from burning of wood, coal, coke, or other combustible materials for the purpose of heating, cooking, and disposing of waste and combustible materials.

15-0202. **GARBAGE CANS - REQUIRED - CAPACITY - CONSTRUCTION.** Every owner or occupant of any house, hotel, restaurant, building, flat, apartment, tenement, commercial building, tourist court or mobile home park unit in this City, where persons reside, board or lodge, or where animal or vegetable food is accumulated, kept for sale, prepared or served, shall provide for such house, hotel, restaurant, building, flat, apartment, tenement, commercial building, tourist court or mobile home park unit, and at all times maintain in good order a vessel or vessels for garbage.

For each flat, apartment, tenement, building or mobile home park unit, one (1) such vessel for each living unit shall be provided.

Such vessel for garbage shall be watertight and made of metal or plastic with a close-fitting metal or plastic cover, and shall have a capacity of not less than ten (10) nor more than thirty-three (33) gallons. However, one (1) or more larger containers of such size and type as is approved by the City Agent may be used if such City Agent determines the same to be necessary. Garbage receptacles should be placed on the premises, under the direction of the City Agent as to be easily accessible to the garbage collectors.

15-0203. **GARBAGE TO BE WRAPPED - SUBSTANCES TO BE PLACED IN GARBAGE CAN.** All garbage must be wrapped in a reasonable manner before being placed in any garbage receptacle or vessel. It shall be unlawful for any person or persons to place garbage in a vessel or receptacle in a loose or unwrapped condition.

Rubbish and ashes may be wrapped and placed in said garbage receptacle, or it may be wrapped and placed in a separate container no larger than twenty-four (24) inches by thirty-six (36) inches.

15-0204. **GARBAGE CAN TO BE EMPTIED: WHEN.** All garbage receptacles shall be emptied on the following schedule: In the case of private residences, said garbage collection shall be made at least once each week; and for all other places of business garbage collection shall be made as often as deemed necessary to prevent excessive accumulations thereof.

15-0205. **WHO MAY REMOVE CONTENTS OF GARBAGE CAN.** It shall be unlawful for any person, firm or corporation, or any agent or employee thereof to haul, carry or convey through, along, or upon any public street, alley or sidewalk within the City of Harwood, any garbage, rubbish, or ashes as classified under this chapter unless employed, licensed or permitted by the City of Harwood, to carry or convey garbage.

15-0206. **REMOVAL OF GARBAGE NOT TO BE INTERFERED WITH.** No person shall obstruct, delay or interfere with any garbage collector engaged in collecting or removing garbage, rubbish, or

ashes who is under the employ, license, and permit of the City of Harwood.

15-0207. **GARBAGE COLLECTION FEES.** The fees for garbage collection shall be set by resolution of the City Council.

The payment in all cases for garbage service pickup collection and disposal shall be made directly to the City of Harwood.

Notwithstanding any other provisions of this ordinance, any person receiving a reduction in the assessment or assessed valuation of their homestead in accordance with Section 57-02-08.1 of the North Dakota Century Code shall pay a fee of $2.25 per month for garbage collection.

15-0208. **COLLECTION BY CITY EMPLOYEES OR BY CONTRACT.** The City either may purchase, maintain, or lease and operate equipment for the removal and disposal by City employees of all or any part of the garbage, rubbish, and ashes within the City of Harwood or may provide for the collection, removal, or disposal thereof, in whole or in part, by any person, firm, or corporation with whom the City now has, or hereinafter may have, duly contracted as hereinafter provided.

15-0209. **GARBAGE CONTRACT - ADVERTISING FOR BIDS - AWARDING - BOND REQUIRED.** If it shall be deemed advisable by the City Council, the City Auditor shall advertise for bids for the removal of garbage, rubbish, and ashes out of the City limits under such conditions as the City Council may designate. Such notice shall be published twice, once each week in the official newspaper of the City of Harwood. Each bid shall be accompanied by a certified check in the sum of Five Hundred Dollars ($500.00), payable to the order of the City Treasurer, which check shall be forfeited to the City if the successful bidder fails to enter into a contract with the City and give bond as provided below. The contract or contracts, as the case may be, shall be awarded to the lowest responsible bidder or bidders, if to be let by competitive bids. The person or persons obtaining such contract from the City shall execute a bond to the City of Harwood in such sum as the City Council may provide for the full and faithful performance of all the agreements of said contract and a complete compliance with this ordinance.

15-0210. **GARBAGE NOT MEETING SPECIFICATIONS.**

A. The following items shall not be picked up as part of the garbage collection system of the City of Harwood, and it shall be unlawful to place out for collection any of the following items:

1. Liquids.

2. Sludges (including sewage sludges, lime sludges, bar screenings and similar materials).

3. Animal manure.

4. Septic tank pumpings.

5. Unrinsed pesticide containers.

6. Hazardous wastes including:

   a. Ignitibles (solvents, fuels and similar materials).
   b. Corrosives (acids, alkalies and similar materials).
   c. Reactives (hypo chlorites, swimming pool chemicals, cyanides, and similar materials).
   d. EP toxic (paint sledges containing lead, chrome and similar materials).

7. Waste oil.

8. Asbestos.

9. Infectious wastes.

10. PCB's.

11. Large quantities of fly ash, soluble material, such as salt, may be restricted or require special handling.

B. The following items will be picked up not as part of the regular collection, but for a special fee to be set by the City Agent:

1. Lead acid batteries.

2. Tires.

3. Appliances.

4. Furniture.

5. Other items with the approval of the City Agent.

15-0211. **DUTY OF CITY SANITATION SUPERINTENDENT.** It shall be the duty of the City Sanitation Superintendent of the City of Harwood to make such rules as he may deem necessary to regulate, enforce and carry out provisions of this chapter.

15-0212. **OTHER GARBAGE HAULERS.** No person, firm, corporation, or other business entity shall engage in the business of removing, collecting, transporting, or disposing of garbage, rubbish, or ashes as defined in Section 15-0201 within the city limits of Harwood without first having obtained a permit therefor from the City Auditor. The fee for such permit shall be $15. A separate permit shall be required for each entity served in Harwood. The permit for hauling garbage under this chapter shall only be granted when the City Agent, in his discretion, determines that it would not be feasible for the City to haul garbage from a specific commercial or industrial facility because of the quantity or unusual nature of the garbage. Application for such permit shall be made to the City Agent upon forms provided by him, and such application shall contain, among other things, the following information: the name of the hauler, its address and description of vehicle or vehicles in which garbage or recyclable materials are to be hauled in Harwood, and the name and address of the specific commercial or industrial entity to be served. Such permit shall be valid for a one (1) year period, and the applicant must reapply each year thereafter for a new permit. The permit may be revoked by the City Council for violation of any provisions of this chapter. No such revocation shall become effective until notice shall first be given to the holder of the permit by certified mail stating the reasons for such revocation. Such revocation shall become final unless, within seven (7) days from the date of the mailing of such notice, the holder of such permit shall, in writing, request a hearing thereon by the City Council. The hearing shall be held at the next regularly scheduled meeting of the City Council, and the decision of the Council shall be final.

15-0213. **ENCLOSURE FOR GARBAGE VESSELS.** All dwelling units and all commercial establishments shall have approved enclosures for garbage cans which enclosures must meet minimum specifications set forth by the City Council and on file with the City Auditor.

15-0214. **PENALTY.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such a violation continues shall be considered a separate offense.

15-0215. **SEPARABILITY OF PROVISIONS OF ARTICLE.** It is the intention of the City Council that the separate provisions of this article shall be deemed independent of all other provisions herein, and it is further the intention of said Council that if any provisions of this article be declared invalid, all other provisions thereof shall remain valid and enforceable.

CHAPTER 15-03

PUBLIC NUISANCES

SECTIONS:

15-0301. Nuisances - Defined.
15-0302. Nuisances Prohibited.
15-0303. Definitions.
15-0304. Sanitary Nuisances.
15-0305. Noxious Weeds.
15-0306. Hedge, Tree or Growth - When a Nuisance.
15-0307. Junk Automobile, Building Materials - Storage or Accumulation Contrary to Public Health and Welfare.
15-0308. Abandoned Automobiles - Unclaimed Personal Property - Nuisance.
15-0309. Snow and Ice Removal - Sidewalks - Nuisance.
15-0310. Snow and Ice Removal - Public Streets - Nuisance.
15-0311. Dumping - Excavation - Nuisance.
15-0312. Notice to Remove Nuisances.
15-0313. Failure to Remove - Prosecution.
15-0314. Failure to Remove - Civil Penalty.
15-0315. Penalty.
15-0316. Authorized Persons.
15-0317. Odor - Nuisance.

15-0301. **NUISANCES - DEFINED.** In all cases where no specific provision is made defining what is a nuisance and how the same may be removed, abated or prevented, in addition to what may be declared such herein, those offenses which are known to the common law of the land and the statutes of North Dakota as nuisances may, in case the same exist within the City of Harwood, be treated as nuisances, and, in addition to those remedies otherwise provided by law, may be proceeded against as in this chapter, provided or in accordance with any other law which shall give the Court hearing the same jurisdiction.

15-0302. **NUISANCES PROHIBITED - PERSONS DEFINED.** No person, as owner or occupant of any lot or tenement, shall cause or permit any nuisance to be or remain in or upon any such lot or tenement or between the same and the center of the street or alley adjoining. For purposes of this Title, the term "person" includes, where relevant, corporations, unincorporated associations, or other legal entities. For purposes of this Title, words used in the singular include the plural, and the plural, the singular. Words in the masculine gender include the feminine and neuter genders.

15-0303. **DEFINITIONS.** Whenever used in this Title, each of the following words and phrases shall have the meaning ascribed to it:

1. "Garbage" shall mean all manner of kitchen and table refuse and offal, including decayed fruit, animal and vegetable matter, manure, metal cans, bottles, and other foreign waste matter.

2. "Noxious Weeds" shall include noxious vegetation and unhealthful vegetation.

   (a) The term "noxious vegetation" shall mean and include all weeds, of the kinds known as Canadian thistle, sow thistle, quack grass, leafy spurge ("Euphorbia esula or Euphorbia virgate"), field bindweed, Russian knapweed ("Centaurea Picris"), hoary cress ("Lapidium draba, Lepidium repens and Hemenophysa pubescens") and dodder.

   (b) The term "unhealthful vegetation" shall mean and include all vegetation which is in such a state of growth as to constitute a health hazard and/or which is conducive to the breeding of disease.

3. "Junk" shall include, without limitation, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use.

4. "Junk automobiles" shall include, without limitation, any motor vehicle which is not licensed for use upon the highways of the State of North Dakota for a period in excess of Sixty (60) days, and shall also include whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of sixty (60) days, provided however, that excepted from this definition are unlicensed but operative vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.

5. "Abandoned vehicle" shall include, without limitation, any vehicle which has remained on private property for a period of forty-eight (48) continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.

6. "Building materials" shall include, without limitation, lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other material used in constructing any structure.

7. "Demolition materials" shall include, without limitation, debris resulting from the demolition of buildings; such as concrete, stone, plaster, bricks, concrete blocks, and other materials that are the result of demolition and construction operations.

8. "Earth material" shall include any rock, gravel, natural soil or fill or any combination thereof.

9. "Hazardous Waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form which (a) because of its quantity, concentration, or physical, chemical, or other characteristic, in the judgment of the North Dakota State Health Department may (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, disposed of, or otherwise managed; or (b) is identified by the mechanisms established in this chapter. Such wastes include, but are not limited to, those which exhibit extraction procedure (EP) toxicity, corrosivity, ignitability, or reactivity. The definition of hazardous waste above shall automatically be amended to adopt any amendments to Section 23-20.3-02(5), North Dakota Century Code, and any such amendments shall be of the same force and effect as if fully set out in this Ordinance.

10. "Trash and rubbish" shall include any and all forms of debris not herein otherwise classified.

15-0304. **SANITARY NUISANCES.**

1. PUMPING SEWAGE INTO OPEN GROUND PROHIBITED. It shall be a nuisance and offense for any person to pump the contents of any cesspool or septic tank or privy vault or other receptacle for the disposal of sewage upon the ground or into any open ditch or drainage course or to dispose of sewage in any manner other than by depositing the same in sewers, privy vaults, cesspools, septic tanks, or similar receptacles or by having said sewage or

the contents of any of said receptacles hauled to some place far enough from the platted portions of this City so as not to create any offensive odor or be a menace to health, and there to dispose of the same by the use of fire, chemicals, or other methods best suited to eliminate odor, destroy pathogenic bacteria and flies.

2. PRIVIES AND SEPTIC TANK NUISANCES. It shall be a nuisance and offense for the subsurface contents of any privy to be above the surface or within two (2) feet of the surface of the earth; and all other privies and all septic tanks that are foul and emitting smells and odors.

3. HARBORAGE FOR RATS PROHIBITED. It shall be a nuisance and offense for any person to accumulate on any premises, improved or vacant, and on all open lots and alleys in the City of Harwood, any lumber, boxes, barrels, bricks, stones, or similar materials that may be permitted to remain thereon unless the same shall be placed on open racks that are elevated not less than six (6) inches from the ground, and evenly piled or stacked so that these materials will not afford harborage for rats.

4. DECAYED ANIMAL MATTER NOT TO REMAIN IN CITY. It shall be a nuisance and offense for any person having ownership or control of any animal matter which is unsound or in process of decay within the City of Harwood, to permit the same to be and remain, while in such condition, within said City, or within one (1) mile of the limits thereof, more than twelve (12) hours after such animal matter shall have become unsound, or after the process of decay shall have begun in the same, whether it be at any establishment for the rendering or changing the character thereof, or elsewhere within the said City, or within one (1) mile of the limits thereof.

5. CASTING, THROWING OR DEPOSITING GARBAGE IN PUBLIC PLACES PROHIBITED. It shall be a nuisance and offense for any person to cast, throw, deposit or allow to accumulate in or upon any street, alley or other public place or in any ditch adjacent to any street, alley or other public place, any ashes, tin cans, garbage, rubbish, manure or refuse of any kind.

6. ACCUMULATION OF RUBBISH AND GARBAGE IN CITY LIMITS PROHIBITED. It shall be a nuisance and offense for any person to permit or suffer to accumulate in or about any yard, lot, place or premises, or upon any street, alley, sidewalk or City property, adjacent to or abutting upon any lot, block, place or premises owned or occupied by

him within the City limits, refuse, vegetables, decayed or decaying substances, garbage, paper, rubbish, manure, dead animals or ashes or filth of any kind nor suffer such yard, lot, place or premises to be or in such condition. Provided, however, that such section shall not preclude a person from maintaining a compost heap on property owned or leased by that person from materials obtained from that property and to be used on that property.

7. STAGNANT WATER, DUTY TO DRAIN. It shall be a nuisance and offense to allow stagnant water to stand or to remain along the line of any railroad, street, highway, alley, public place or along or upon any land within the City of Harwood. It shall be the duty of all persons having, using, or occupying land, either as owners, tenants, or having control thereof as agents or otherwise,.to remove or drain or cause to be removed or drained all stagnant water therefrom, and upon the order of the Building Inspector to take all necessary steps to permanently alleviate that problem, including, but not limited to, filling the area in which the stagnant water is or has been standing.

15-0305. **NOXIOUS WEEDS PROHIBITED.** It shall be a nuisance and offense for any person owning or occupying any lot or tenement in the City of Harwood, to grow or allow to grow thereon any noxious vegetation and/or unhealthful vegetation.

15-0306. **HEDGE, TREE, OR GROWTH - WHEN A NUISANCE.** Any hedge, tree, or growth of any kind or character maintained on any property in the City of Harwood, so located or of such height as to constitute a traffic hazard by obstructing the view of the driver of any vehicle upon the streets of the City to the extent that such driver is unable to readily observe the approach of other vehicles on the streets, alleys, and at intersections, or which is likely, because of its location or height, to cause accidents or injury to any person, is hereby declared a nuisance and offense.

15-0307. **JUNK, JUNK AUTOMOBILES, BUILDING MATERIALS - STORAGE OR ACCUMULATION CONTRARY TO PUBLIC HEALTH AND WELFARE.** It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, upon any private property within the City of Harwood, tends to result in blighted and deteriorated neighborhoods, the increase in criminal activity, the spread of vermin and disease, and is contrary to the public peace, health, and safety and general welfare of the community.

1. UNLAWFUL TO ACCUMULATE ABANDONED VEHICLES AND JUNK. It shall be a nuisance and offense for any person to store or permit the storage or accumulation of trash, rubbish, junk, junk automobiles, or abandoned vehicles on any private property in the City of Harwood except within a completely closed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods, or junk gatherer.

2. UNLAWFUL TO DISMANTLE AUTOMOBILE - EXCEPTION. It shall be a nuisance and offense for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same be a junk automobile, abandoned vehicle or otherwise, or any appliance or machinery except in a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods, or junk gatherer.

3. UNLAWFUL TO STORE BUILDING MATERIALS - EXCEPTION. It shall be a nuisance and offense for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building or except where such building materials are part of the stock in trade of a business located in said property, or except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the City of Harwood, and unless said construction is completed within a reasonable period of time.

15-0308. **ABANDONED AUTOMOBILES - UNCLAIMED PERSONAL PROPERTY - NUISANCE.** Any motor vehicle, animal or other article of personal property, located within the City of Harwood, the use, condition or status of which is in violation of any ordinance of the City of Harwood, or any law of the State of North Dakota, and constitutes an obstruction, hazard or detriment to public traffic, snow removal operations, public safety or public health, or which may be damaged, disabled or otherwise involved in an accident, or in the commission of any violation of any ordinance of the City of Harwood or any law of the State of North Dakota, or any vehicle or other article of personal property abandoned or unclaimed within the City of Harwood, is hereby declared to be a nuisance.

1. REMOVAL AND IMPOUND - PEACE OFFICER - DUTY. Any peace officer acting in that capacity within the City limits of the City of Harwood, or such other person as designated by the City Council, shall remove or cause to be removed to City Hall, or other place designated by the City

Council, any personal property described in the immediately preceding paragraph and may impound and retain the same until the expense of removal, storage and impounding fee, if any, is paid, together with the amount of any fine, costs, bail or other claims of the City of Harwood against the owner, or any other person lawfully entitled to the possession thereof the provisions of Section 15-0312 notwithstanding.

2. IMPOUND PROPERTY; WHEN HELD AND SOLD. If not reclaimed and redeemed by the true owner or the person lawfully entitled to the possession thereof within a period of sixty (60) days after impounding, any article or personal property described in the first paragraph of this section may be sold and disposed of by the City Auditor of the City of Harwood in the manner set out in Section 1-0703 of the ordinances of the City of Harwood.

3. REPORT TO CITY AUDITOR, DISPOSITION OF PROCEEDS. Within thirty (30) days after such sale, the person making the sale shall make our in writing, and file with the City Auditor of Harwood, a full report of such sale specifying the property sold, the amount received therefor, the amount of costs and expenses, and the disposition made by him of the proceeds of the sale. The proceeds arising from such sale shall be delivered over to the City Treasurer of Harwood and credited to the General Fund.

15-0309. **SNOW AND ICE REMOVAL - SIDEWALKS - NUISANCES.** It shall be a nuisance and offense for any person, as owner or occupant of any lot or tenement, to allow snow or ice to accumulate and remain upon any public sidewalk which abuts such lot or tenement.

15-0310. **SNOW AND ICE REMOVAL - PUBLIC STREETS - NUISANCES.** It shall be a nuisance and offense for any person to allow a motor vehicle or other article of personal property to obstruct, prevent or otherwise hinder the removal of snow and ice from any public street, alley or other roadway customarily used for travel. The provisions of 15-0408 to the extent relevant, shall apply to the removal or abatement of such nuisance.

15-0311. **DUMPING - EXCAVATION - NUISANCE.**

1. Dumping defined - for purposes of this section, dumping shall mean placing, burying or storing on, underneath or upon any land.

2. Within the City limits of Harwood it shall be deemed a nuisance for any person to engage in dumping or any

landowner, tenant or occupant to permit dumping of hazardous wastes except that hazardous wastes may be stored above ground if that person first obtains a permit from the North Dakota Department of Health pursuant to Chapter 23-20.3, North Dakota Century Code.

3. Within the City limits of Harwood it should be deemed a nuisance for any person to engage in dumping or any landowner, tenant or occupant to permit the dumping of garbage, junk, demolition materials, trash and rubbish unless the dumping is at a site for which the Board of Adjustment has granted a conditional use or other permit pursuant to the zoning regulations of the City of Harwood, or unless a permit to use certain material for fill is first obtained from the Building Inspector. It shall not be deemed a nuisance pursuant to this section if the person is in compliance with another section of Chapter 15-02 of the Revised Ordinances of the City of Harwood allowing the storing of materials under certain circumstances, or if the person is in compliance with the regulations for the storage of garbage contained in Chapter 15-02 of the Revised Ordinances of the City of Harwood.

4. Within the city limits of Harwood it shall be deemed a nuisance for any person to engage in dumping or any landowners, tenants, or occupants to permit the dumping of earth material without first obtaining a permit from the Building Inspector. Provided that no permit is necessary where the quantity of earth material is less than 100 cubic yards and the earth material when placed does not exceed 1 foot in depth. Provided further that no permit is needed when the person has first obtained a building permit and the dumping of earth material is connected with the project for which a building permit was granted.

5. Any peace officer acting in that capacity in the City of Harwood is hereby given the authority to prohibit and to stop dumping by any person within the city limits of Harwood unless and until the person or persons stopped from dumping can establish to the satisfaction of said officer that such dumping is permitted under the Revised Ordinances of the City of Harwood. Any person prohibited from dumping by such officer shall within 24 hours be entitled to a hearing before the Building Inspector, or in his absence, a Municipal Judge of the City of Harwood to determine whether or not the dumping is in violation of the ordinances of the City of Harwood.

6. Within the city limits of Harwood it shall be a nuisance if the Building Inspector determines that any existing or future excavation or embankment or cut or fill on private property has become a hazard to life or limb, or endangers property, or adversely affects the safety, use, or stability of a public way or drainage channel or has a significant adverse impact on the drainage of water along its natural course resulting in the creation of stagnate water or the unnatural accumulation of water upon the property of another.

7. The permit from the Building Inspector authorized by Sections 15-0311(3) and (4) shall not be granted unless the following conditions are met:

   (a) A permit fee in the amount of $25 is paid to the Building Inspector.

   (b) No real estate taxes are delinquent on the real property covered by the application.

   (c) That a drainage plan is provided by the applicant showing the final grade of the real property after the requested dumping and which establishes, to the satisfaction of the City Engineer, that no other property will be adversely affected by the dumping.

   (d) That a bond or a certified check payable to the City is deposited with the City Auditor in an amount set by the City Council. The bond or certified check shall be for the purpose of cleaning up the site if the conditions of the permit are not followed and if the applicant does not immediately clean up the site. The amount of the bond or certified check shall be based on the City Council's estimated cost to clean up the site if the conditions of the permit are not followed.

8. The permit from the Building Inspector authorized by Sections 15-0311(3) and (4) shall set forth the following conditions:

   (a) The site where the dumping may occur.

   (b) What materials may be dumped.

   (c) That the drainage plan be followed.

   (d) That if concrete or similar materials are permitted to be used as fill, the permit shall state the time

period in which such materials may remain uncovered.

(e) That the permit shall expire one (1) year after issuance.

(f) Any other condition which the City Council deems advisable in order to control the dumping.

15-0312. **NOTICE TO REMOVE NUISANCES.** Except where otherwise provided in this chapter, if any person within the limits of the City of Harwood shall permit or suffer on his premises or premises of which he may be the occupant, any nuisance the City Council, any member of the City Council, or such persons authorized by the City Council shall cause notice to be given such person to remove or abate such nuisance. The notice shall set forth specifically the nuisance to be removed and the period of time in which it must be removed. The time period allowed for abating the nuisance shall not be less than forty-eight (48) hours after notice shall have been given, provided, however, that the time period may be less if the nuisance has caused or may cause death or injury to any person within the City of Harwood. Provided further, that the provisions of this section shall in no way abrogate or restrict any emergency authority granted to the City Council or other emergency authority delegated to and exercised by persons duly authorized by the City Council.

15-0313. **FAILURE TO REMOVE - PROSECUTION.** If any person, as owner or occupant of any lot or tenement, after notice as provided in Section 15-0312, neglects or refuses to remove or abate the nuisance, the person giving such notice shall notify the City Attorney, who may commence prosecution of the offense in the Harwood Municipal Court or seek injunctive relief in any courts of the State of North Dakota.

15-0314. **FAILURE TO REMOVE - CIVIL PENALTY.** The City official who sent notice of removal or abatement of a nuisance, may, in addition to the remedies set out in the previous section, if the nuisance is not abated within the time period set out in the notice, send notice to the violator of a hearing to be held by the City Council to determine whether or not City officials should be directed to abate the nuisance. The violator must be given five (5) days written notice of the time of the hearing. If at that hearing the Council determines that City officials should abate the nuisance, the Council shall direct employees of the City to do so, and direct that all costs and expenses incurred in that abatement shall be assessed against the property concerned by the City Auditor. Provided, however, if the City official determines that the nuisance presents a clear and present danger of injury or death to a person in Harwood, that official can direct City officials to

abate the nuisance immediately without the need for Council action. Once each year, after written notice to all violators, the City Council shall review all such assessments and hear all complaints against the same and approve the assessments as finally determined by the City Council. Such special assessments shall then be certified to the County Auditor and be placed upon the tax roll for that year and to be collected as other taxes. The decision of the City Council or City official to abate the nuisance in no way relieves the violator of prosecution under the prior section.

15-0315. **PENALTY.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each forty-eight (48) hour period such violation continues shall be considered a separate offense.

15-0316. **AUTHORIZED PERSONS.** The following persons are hereby authorized by the City Council to send out notices and take other actions as set out in this chapter to abate nuisances:

1. Any member of the City Council.

2. City Health Officer.

3. Chief of Police.

4. Superintendent of Streets.

5. Chief of the Harwood Volunteer Fire Department

6. Building Administrator.

7. City Forester.

15-0317. **ODOR - NUISANCE.**

3. Within the city limits of the City of Harwood it shall be deemed a nuisance if there is a discharge into the ambient air of any objectionable odorous air contaminant which is in excess of two (2) odor concentration units outside the property boundary from which the emissions are being discharged.

4. A Barnebey-Cheney Scentometer properly maintained, or other instrumental method as approved by the State Health Department, must be used in determination of the intensity of an odor. An odor will be considered objectionable when at least two inspectors which have been certified by the State Health Department deem that odor objectionable if the odor were present in a place of

residence. An "odor concentration unit" means the maximum number of standard units of odor-free air diluting a standard unit of odorous air so that the certified inspector can still detect that objectionable odor in the diluted mixture.

5. No person may discharge into ambient air hydrogen sulfide (H_2S) in concentrations that would be objectionable on land owned or leased by the complainant or in areas normally assessed by the general public. It shall be deemed a nuisance if two (2) samples with concentrations greater than 0.05 parts per million (50 parts per billion) are sampled at least 15 minutes apart within a 60-minute period. For measuring emissions of hydrogen sulfide, an ambient air analyzer designed for monitoring hydrogen sulfide must be the method used for determining the concentrations of emissions at the point of measurement, or other instrumental methods as approved by the North Dakota State Health Department.

6. The certified inspectors, in operating the Scentometer, an air analyzer designed for monitoring hydrogen sulfide, or other instrument approved by the State Health Department, must follow North Dakota State Health Department guidelines and procedures in conducting such test.

7. For purposes of this section, if a notice to remove or abate a nuisance is given, the odor nuisance will not be deemed to have been abated unless there are no further violations of Section 15-0317 for a period of thirty (30) consecutive days.

TITLE XVI.

MOBILE HOME PARKS

CHAPTERS:

16-01. Definitions.
16-02. Permit.
16-03. License.
16-04. Inspection.
16-05. Notice, Hearings and Orders.
16-06. Exemptions.
16-07. Area: Streets and Sidewalks: Parking: Illumination Regulations.
16-08. Water Supply.
16-09. Sewage Disposal.
16-10. Electrical Distribution System.
16-11. Service Building and Other Community Service Facilities.
16-12. Refuse Handling.
16-13. Insect and Rodent Control.
16-14. Fuel Supply and Storage.
16-15. Fire Protection.
16-16. General Regulations: Penalty.

CHAPTER 16-01

DEFINITIONS

SECTIONS:

16-0101. Definitions.

16-0101. **DEFINITIONS.** As used in this title:

1. Driveway means a minor private way used by vehicles and pedestrians on mobile home lot or used common access to a small group of lots or facilities.

2. Health Authority means the State Department of Health or its authorized representative of the City.

3. License means a written license issued by the Health Authority allowing a person to operate and maintain a mobile home park under the provisions of this title and regulations issued hereunder.

4. Mobile Home means a manufactured transportable, single-family dwelling unit suitable for year-round occupancy and containing water supply, waste disposal and electrical convenience.

5. Mobile Home Lot means a parcel of land for the placement of a single mobile home for the exclusive use of its occupants.

6. Mobile Home Park means a contiguous parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association or corporation.

7. Mobile Home Stand means that part of an individual lot which has been reserved for the placement of one mobile home unit.

8. Park Management means the person who owns or has charge, care or control of the mobile home park.

9. Park Street means a private way which affords principal means of access to individual mobile home lots or auxiliary buildings.

10. Permit means a written permit or certification issued by the City Council permitting the construction, alteration and extension of a mobile home park under the provisions of this title and regulations issued hereunder.

11. Person means any individual, firm, trust, partnership, public or private association or corporation.

12. Service Building means a structure housing toilet, lavatory and such other facilities as may be required by this title.

13. Sewer Connection means the connection consisting of all pipes, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe of the sewerage system serving the mobile home park.

14. Sewer Riser Pipe means that portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home lot.

15. Water Connection means the connection consisting of all pipes, fittings and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the mobile home.

16. Water Riser Pipe means that portion of the water supply system serving the mobile home park which extends vertically to the ground elevation and terminates at a designated point at each mobile home lot.

CHAPTER 16-02

PERMIT

SECTIONS:

16-0201. Permits Required.
16-0202. Application for Permit.
16-0203. Permit Fee.
16-0204. City Council Issues Permit.
16-0205. Appeal.

16-0201. **PERMITS REQUIRED.** It shall be unlawful for any person to construct, alter or extend any mobile home park within the limits of Harwood unless he holds a valid permit issued by the City Building Inspector in the name of such person for the specific construction, alteration or extension proposed.

16-0202. **APPLICATION FOR PERMIT.** All applications for permits shall contain the following:

1. Name and address of applicant.

2. Location and legal description of mobile home park.

3. Complete engineering plans and specifications of the proposed park showing but not limited to the following:

   a. The area and dimensions of the tract of land.

   b. The number, location and size of all mobile home lots.

   c. The location and width of roadways and walkways.

   d. The location of water and sewer lines and riser pipes.

   e. Plans and specifications of the water supply and sewage.

   f. Plans and specifications of all buildings constructed or to be constructed within the mobile home park.

   g. The location and details of lighting and electrical systems.

16-0203. **PERMIT FEE.** All applications shall be accompanied by the deposit of a fee as called for in the title covering building permits.

16-0204. **CITY COUNCIL ISSUES PERMIT.** When, upon review of the application, the City Council is satisfied that the proposed plan meets the requirements of this title, a permit shall be issued.

16-0205. **APPEAL.** Any person whose application for a permit under this title has been denied may request and shall be granted a hearing on the matter before the City Council under the procedure provided by Chapter 16-05 of this title.

CHAPTER 16-03

LICENSE

SECTIONS:

16-0301. License Required.
16-0302. Requirements: Fee: Term.
16-0303. Transfer of License: Notice: Fee.
16-0304. Suspension of License.

16-0301. **LICENSE REQUIRED.** It shall be unlawful for any person to operate any mobile home park within the limits of Harwood without first procuring a license from the City. Any person who seeks to obtain such a license shall execute under oath, and file with the City Auditor, a written application therefor on a form provided by the City Auditor setting forth the name, citizenship, police record, if any, and place of residence of the applicant, and the legal description of the premises for which the license is sought. The application must show the age of the applicant, and include the names of five (5) character witnesses, if an individual; the name, place of residence, citizenship and age of each partner, if the applicant is a partnership; if the applicant is a corporation, the applicant must show the name and address of each officer, together with the date of the charter.

16-0302. **REQUIREMENTS: FEE: TERM.** No license shall be issued unless the applicant holds a valid license issued by the State Health Department in the name of the person for the specific mobile home park. The City license shall be issued upon approval of the building permit, if such is a new mobile home park or an addition to an existing mobile home park, evidence of the State Health Department license, and payment of a Fifty Dollar ($50) annual license fee. The term of the license shall be from July 1 to June 30 following. When the original license is approved, the applicant shall pay a fee pro-rated in accordance with the portion of the license year which has expired and the portion of the license year which remains to run.

16-0303. **TRANSFER OF LICENSE: NOTICE: FEE.** Every person holding a license shall give notice in writing to the City Council within five (5) days after having disposed of interest in any mobile home park. Such notice shall include the name and address of the persons succeeding to the ownership of such mobile home park. Upon application in writing for transfer of the license and deposit of a fee of Twenty-five Dollars ($25), the license shall be

transferred if the mobile home park is in compliance with all applicable provisions of this title.

16-0304. **SUSPENSION OF LICENSE.** Whenever upon inspection of any mobile home park, the Building Inspector finds that conditions or practices exist which are in violation of any provision of this title, the Building Inspector shall give notice in writing in accordance with Section 16-0501 to the person to whom the license was issued that unless such conditions are corrected within a reasonable period of time, specified in the notice, the license shall be suspended. At the end of such period the Building Inspector shall reinspect such mobile home park and, if such conditions or practices have not been corrected, he shall suspend the license and give notice in writing of such suspension to the person to whom the license is issued. Upon receipt of notice of such suspension, such person shall cease operation of such mobile home park except as provided in Section 16-0502.

CHAPTER 16-04

INSPECTION

SECTIONS:

16-0401. Inspection by Building Inspector.
16-0402. Authority to Enter Premises.
16-0403. Authority to Inspect Register.
16-0404. Duty of Park Manager.
16-0405. Duty of Occupant.

16-0401. **INSPECTION BY BUILDING INSPECTOR.** The City Building Inspector is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this title.

16-0402. **AUTHORITY TO ENTER PREMISES.** The Building Inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this title.

16-0403. **AUTHORITY TO INSPECT REGISTER.** The City shall have the power to inspect the register containing a record of all residents of the mobile home park.

16-0404. **DUTY OF PARK MANAGER.** It shall be the duty of the park management to give the City free access to all lots at reasonable times for the purpose of inspection.

16-0405. **DUTY OF OCCUPANT.** It shall be the duty of every occupant of a mobile home park to give the owner thereof or his agent or employee access to any part of such mobile home park at a reasonable time for the purpose of making such repairs or alterations as are necessary to effect compliance with this title.

CHAPTER 16-05

NOTICE, HEARINGS AND ORDERS

SECTIONS:

16-0501. Notice of Violation.
16-0502. Hearing on Notice.
16-0503. Order of City Council.
16-0504. Appeal.
16-0505. Emergency: Power of City Council.

16-0501. **NOTICE OF VIOLATION.** Whenever the City determines that there are reasonable grounds to believe that there has been a violation of any provision of this title, the City shall give notice of such alleged violation to the person to whom the permit or license was issued, as hereinafter provided. Such notice shall:

1. Be in writing.

2. Include a statement of the reasons for its issuance.

3. Allow a reasonable time for the performance of any act it requires.

4. Be served upon the owner or his agent as the case may require. Provided: That such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to his last known address, or when he has been served with such notice by any method authorized or required by the laws of this State. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this title.

16-0502. **HEARING ON NOTICE.** Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this title, may request and shall be granted a hearing on the matter before the City Council. Provided: That such person shall file in the office of the City Auditor a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension except in the case of an order issued under Section 16-0505. Upon receipt of such petition the City Council shall set a time and place for such hearing and shall give the petitioner written notice thereof.

At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed. Provided: That upon application of the petitioner the City Council may postpone the date of the hearing for a reasonable time beyond such ten (10) day period when in his judgment the petitioner has submitted good and sufficient reasons for such postponement.

16-0503. **ORDER OF CITY COUNCIL.** After such hearing the City Council shall make findings as to compliance with the provisions of this title and shall issue an order in writing sustaining, modifying or withdrawing the notice which shall be served as provided in Section 16-0501. Upon failure to comply with any order sustaining or modifying a notice, the license of the mobile home park affected by the order shall be revoked.

16-0504. **APPEAL.** The proceedings at such a hearing, including the findings and decisions of the City Council and together with a copy of every notice and order related thereto shall be entered as a matter of public record in the office of the Health Authority but the transcript of the proceedings need not be transcribed unless judicial review of the decision is sought as provided by this section. Any person aggrieved by the decision of the City Council may seek relief therefrom in any Court of competent jurisdiction as provided by the laws of this State.

16-0505. **EMERGENCY: POWER OF CITY COUNCIL.** Whenever the City Council finds that an emergency exists which requires immediate action to protect the public health it may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as it may deem necessary to meet the emergency including the suspension of the permit or license. Notwithstanding any other provisions of this title, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the City Council shall be afforded a hearing as soon as possible. The provisions of Section 16-0503 and 16-0504 shall be applicable to such hearing and the order issued thereafter.

CHAPTER 16-06

EXEMPTIONS

SECTIONS:

16-0601. Exemption: When Granted.
16-0602. How Long Exemption Allowed.
16-0603. Conformity.
16-0604. Additional Exemption.

16-0601. **EXEMPTION: WHEN GRANTED.** Where the City Council finds that compliance with provisions of this title would result in undue hardship, an exemption may be granted by the City Council without impairing the intent and purpose of this title. Deviations from design, construction and installation provisions shall be brought into compliance with this title within a reasonable period of time based on economic feasibility of improvement, nature, significance and extent of deviation, depreciation of material, improvement, and layout in use and other similar factors, within a minimum period not exceeding five (5) years and a maximum period not exceeding twenty-five (25) years.

16-0602. **HOW LONG EXEMPTION ALLOWED.** Such period shall begin after the City Council has given notice of a certain and specific deviation from this title to the person to whom the permit or certification was issued.

16-0603. **CONFORMITY.** Gradual improvements to a higher degree of conformity shall be permissive provided that there shall be complete conformity at the end of a period prescribed by the City Council.

16-0604. **ADDITIONAL EXEMPTION.** Those mobile home parks which are in existence on August 4, 1971, will not be forced to comply with this title, with the exception that any new additions, that result in the increase of the number of trailer spaces available, to the old park, must comply with this title.

CHAPTER 16-07

AREA: STREETS AND SIDEWALKS: PARKING: ILLUMINATION REGULATIONS

SECTIONS:

16-0701. Required Setbacks, Buffer Strips, Screening and Density.
16-0702. Park Street System and Car Parking.
16-0703. Walks.
16-0704. Mobile Home Stands.
16-0705. Traffic Regulations.

16-0701. **REQUIRED SETBACKS, BUFFER STRIPS, SCREENING AND DENSITY.**

1. All mobile homes shall be located at least twenty-five (25) feet from any park property boundary line abutting upon a public street or highway and at least fifteen (15) feet from other park property boundary lines.

2. There shall be a minimum distance of ten (10) feet between the mobile home stand and abutting park street.

3. All mobile home parks located adjacent to industrial or commercial land uses shall be provided with screening such as fences or natural growth along the property boundary line separating the park and such adjacent nonresidential uses.

4. No acre of land within any mobile home park shall contain more than seven (7) mobile home lots.

16-0702. **PARK STREET SYSTEM AND CAR PARKING.**

1. General Requirements. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets and roads to each mobile home lot. Such access shall be provided by streets, driveways or other means.

2. Park Entrance. Entrances to mobile home parks shall be designated to minimize congestion and hazards and allow free movement of traffic on adjacent streets.

3. Internal Streets. Surfaced roadways shall be of adequate width to minimum requirements:

   a. All streets except minor streets..... 24 Feet (From back of curb to back of curb)

   b. Minor Streets..... 18 Feet (Acceptable only if less than Five Hundred (500) feet long and serving less than Twenty-five (25) mobile homes or of any length if mobile home lots abut one side only).

   c. Dead End Streets shall be limited in length to 1,000 Feet and shall be provided at the closed end with a turn around having an outside roadway diameter of at least Sixty (60) feet.

4. Car Parking. Off-street parking area or off-street parking lanes shall be provided for the use of park occupants and guests. Such areas shall:

   a. Be furnished at a rate of at least 1.50 car space for each mobile home lot.

   b. Be located within a distance of Two Hundred (200) feet from the mobile home to be served unless other vehicular access is provided.

   The minimum street width requirement under Section 16-0702.3 shall be increased by seven (7) feet if on-street parking is the only type of car parking provided in a mobile home park.

5. Required Illumination of Park Street Systems. All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

   a. All parts of the park street systems: 0.6 foot candle, with a minimum of 0.1 foot candle.

   b. Potentially hazardous locations, such as major street intersections and steps or stepped ramps: Individually illuminated, with a minimum of 0.3 foot candle.

6. Street Construction and Design Standards.

a. Pavements. All streets shall be provided with a smooth, hard and dense surface which shall be durable and well drained under normal use and weather conditions. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Street surfaces shall be maintained free of cracks, holes and other hazards.

b. Grades. Grades of all streets shall be sufficient to insure adequate surface drainage.

c. Intersections. Within one hundred (100) feet of an intersection, streets shall be at approximately right angles. A distance of at least one hundred fifty (150) feet shall be maintained between center lines of offset intersecting streets. Intersections of more than two (2) streets at one point shall be avoided.

16-0703. **WALKS.**

1. General Requirements. All parks shall be provided with safe, convenient all-season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.

2. Common Walk System. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three and one-half (3½) feet.

3. Individual Walks. All mobile home stands shall be connected to common walks, to paved streets or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of two (2) feet.

16-0704. **MOBILE HOME STANDS.** The areas of the mobile home stand shall be improved to provide adequate support for the placement of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning. The mobile home shall not heave, shift or settle unevenly under the weight of the

mobile home due to frost action, inadequate drainage, vibration or other forces acting on the structure.

16-0705. **TRAFFIC REGULATIONS.** The traffic regulations set out in Title XIII of the Revised Ordinances of the City of Harwood shall be in full force and effect and enforced on the streets within a mobile home park, with the exception that the parking regulations of Title XIII shall not be applicable. The speed limit on streets within a mobile home park shall be as set by the City Council of the City of Harwood. The City shall have the right to place speed limit signs, stop signs and other traffic signs as they deem appropriate. Such signs shall not be removed without the permission of the City of Harwood.

CHAPTER 16-08

WATER SUPPLY

SECTIONS:

16-0801. Connection With City Mains: Meter.
16-0802. Source of Supply.
16-0803. Water Distribution.
16-0804. Approval of Plans.

16-0801. **CONNECTION WITH CITY MAINS: METER.** The water system shall be connected to the City's Main at a location approved by the City Water Department, and metered in a manner approved by the Water Department. The system shall comply in every way with the City and State Plumbing Codes.

16-0802. **SOURCE OF SUPPLY.** The water supply shall be capable of supplying a minimum of One Hundred Fifty (150) gallons per day per mobile home.

16-0803. **METER DISTRIBUTION.** An individual water connection consisting of a riser terminating in a valved outlet at least four (4) inches above the ground shall be provided at each mobile home stand. Water connections shall be located a safe distance from the sewer connections.

16-0804. **APPROVAL OF PLANS.** Complete plans and specifications shall be submitted to the State Health Department and the City Engineer for approval.

CHAPTER 16-09

SEWAGE DISPOSAL

SECTIONS:

16-0901. Requirements.
16-0902. Size of Service.
16-0903. Service Connection Standards.

16-0901. **REQUIREMENTS.** The entire sewage system shall be connected to the City Sewage System at a location approved by the City Engineer. The system shall comply in every way with the City and State Plumbing Codes.

16-0902. **SIZE OF SERVICE.** A minimum of four (4") inch service shall be provided to each mobile home stand and collection lines shall be approximately sized to handle the normal flow plus a safety factor of two and one-half (2½).

16-0903. **SERVICE CONNECTION STANDARDS.** Any surface sewage connection, including, but not limited to, mobile home drain connections, shall be of hubless cast iron soil pipe or schedule 40 PVC or ABS plastic pipe not less than four (4) inches in size and not less than three (3) inches inside diameter. Drain Connections shall be gas and water tight. Each service to any surface sewage connection, including, but not limited to, mobile home drain connections, not in use shall be equipped with a hubless sewer plug.

CHAPTER 16-10

ELECTRICAL DISTRIBUTION SYSTEM

SECTIONS:

16-1001. General Requirements.
16-1002. Power Distribution Lines.
16-1003. Individual Electrical Connections.
16-1004. Required Grounding.

16-1001. **GENERAL REQUIREMENTS.** Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

16-1002. **POWER DISTRIBUTION LINES.**

1. Main power lines shall be located underground.

2. All direct conductors or cable shall be buried at least eighteen (18) inches below the ground surface and shall be insulated and specially designed for the purpose. Such conductors shall be located not less than one (1) foot radial distance from water, sewer, gas or communication lines.

16-1003. **INDIVIDUAL ELECTRICAL CONNECTIONS.**

1. Each mobile home lot shall be provided with an approved disconnecting device and over-current protective equipment. The minimum service per outlet shall be 120/124 volts AC, 50 amperes.

2. Outlets (receptacles or pressure connectors) shall be housed in a weatherproof outlet box, and shall be located not more than Twenty-five (25) feet from the over-current protective device in the mobile home. A Three-pole, four-wire grounding type shall be used.

3. Receptacles, if provided, shall be in accordance with American Standard Outlet Receptacle C-73.1.

4. Connectors, if not substituted by more than one (1) receptacle, shall be provided where the calculated load of the mobile home is more than fifty (50) amperes.

5. The mobile home shall be connected to the outlet box by an approved type of flexible supply cord with a male attachment plug or with pressure connectors.

16-1004. **REQUIRED GROUNDING.** All exposed non-current carrying metal parts of mobile homes and all other equipment shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method or grounded metallic wiring. The neutral conductor shall not be used as an equipment ground for mobile homes or other equipment.

CHAPTER 16-11

SERVICE BUILDING AND OTHER
COMMUNITY SERVICE FACILITIES

SECTIONS:

16-1101. General.
16-1102. Structural Requirements for Buildings.
16-1103. Barbecue Pits, Fireplaces, Stoves and Incinerators.

16-1101. **GENERAL.** The requirement of this chapter shall apply to service buildings, recreation buildings and other community service facilities such as:

1. Management offices, repair shops and storage areas;

2. Sanitary facilities;

3. Laundry facilities;

4. Indoor recreation areas;

5. Commercial uses supplying essential goods or services for the exclusive use of park occupants.

16-1102. **STRUCTURAL REQUIREMENTS FOR BUILDINGS.**

1. All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, termites, and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.

2. All rooms containing sanitary or laundry facilities shall:

   a. Have sound resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions around showers, bathtubs, lavatories, and other plumbing fixtures shall be constructed of dense, non-absorbent, waterproof material or covered with moisture resistant material.

   b. Have at least one window or skylight facing directly to the outdoors. The minimum, aggregate

gross area of windows for each required room shall be not less than ten percent (10%) of the floor area served by them.

c. Have at least one (1) window which can be easily opened, or a mechanical device which will adequately ventilate the room.

3. Toilets shall be located in separate compartments equipped with self-closing doors. Shower stalls shall be of the individual type. The roofs shall be screened to prevent direct view of the interior when the exterior doors are open.

4. Illumination levels shall be maintained as follows: (a) general seeing tasks - five (5) footcandles; (b) laundry room work area - forty (40) footcandles; (c) toilet room, in front of mirrors - forty (40) footcandles.

5. Hot and cold water shall be furnished to every lavatory, sink, bathtub, shower and laundry fixture and cold water shall be furnished to every water closet and urinal.

16-1103. **BARBECUE PITS, FIREPLACES, STOVES AND INCINERATORS.** Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed, maintained and used as to minimize fire hazards and smoke nuisance both on property on which used and on neighboring property.

CHAPTER 16-12

REFUSE HANDLING

SECTIONS:

16-1201. General Regulations.
16-1202. Storage Containers.
16-1203. Container Stands.
16-1204. Collection.

16-1201. **GENERAL REGULATIONS.** The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident of fire hazards or air pollution.

16-1202. **STORAGE CONTAINERS.** All refuse shall be stored in fly-tight, watertight, rodent-proof containers, which shall be located not more than One Hundred Fifty (150) feet from any mobile home lot. Containers shall be provided in sufficient number and capacity to properly store all refuse.

16-1203. **CONTAINER STANDS.** Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped to minimize spillage and container deterioration and to facilitate cleaning around them.

16-1204. **COLLECTION.** All refuse containing garbage shall be collected at least weekly. Where suitable collection service is not available from municipal or private agencies, the mobile home park operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

CHAPTER 16-13

INSECT AND RODENT CONTROL

SECTIONS:

16-1301. Grounds, Buildings and Structure Regulation.
16-1302. Accumulation of Debris Prohibited.
16-1303. Storage Area: Regulation.
16-1304. Screening Required.
16-1305. Weeds: Regulation.

16-1301. **GROUNDS, BUILDINGS AND STRUCTURE REGULATION.** Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the City.

16-1302. **ACCUMULATION OF DEBRIS PROHIBITED.** Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

16-1303. **STORAGE AREA: REGULATION.** Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building material shall be stored at least one (1) foot above the ground.

16-1304. **SCREENING REQUIRED.** Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.

16-1305. **WEEDS: REGULATION.** The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

CHAPTER 16-14

FUEL SUPPLY AND STORAGE

SECTIONS:

16-1401. Natural Gas System.
16-1402. Liquified Petroleum Gas System.
16-1403. Fuel Oil Supply.

16-1401. **NATURAL GAS SYSTEM.** The natural gas system shall be installed in accordance with the State and City codes for Natural Gas Systems.

16-1402. **LIQUIFIED PETROLEUM GAS SYSTEM.** All L.P. Gas Systems shall be installed as centralized system. Individual gas tanks will not be allowed. L.P. must be installed with a centralized tank and underground distribution system.

All L.P. gas systems shall be installed in accordance with State and City codes.

16-1403. **FUEL OIL SUPPLY.** All fuel oil supply systems shall be installed as a centralized system. Individual fuel oil tanks will not be allowed. Oil must be installed with a centralized oil tank and underground distribution lines. All fuel oil supply systems shall be installed and maintained in accordance with the State and City codes.

CHAPTER 16-15

FIRE PROTECTION

SECTIONS:

16-1501. General Regulations.
16-1502. Fire Extinguishers.
16-1503. Fire Hydrants.

16-1501. **GENERAL REGULATIONS.** Mobile home parks shall be kept free of litter, rubbish and other flammable materials.

16-1502. **FIRE EXTINGUISHERS.** Portable fire extinguishers rated for classes B and C fires shall be kept in service buildings and at other locations conveniently and readily accessible for use by all occupants and shall be maintained in good operating condition. Their capacity shall not be less than two and one-half (2½) pounds.

16-1503. **FIRE HYDRANTS.**

1. Fire hydrants shall be installed in the park water supply system in accordance, with the following requirements:

   a. The water supply system shall permit the operation of a minimum of two (2), one and one-half (1½) inch hose streams.

   b. Each of two (2) nozzles, held four (4) feet above the ground, shall deliver at least two hundred fifty (250) gallons of water per minute at a flowing pressure of at least thirty (30) pounds per square inch at the highest elevation point of the park.

2. Fire hydrants shall be located within Five Hundred (500) feet of any mobile home, service building or other structure in the park.

CHAPTER 16-16

GENERAL REGULATIONS: PENALTY

SECTIONS:

16-1601. Responsibilities of the Park Management.
16-1602. Responsibilities of Park Occupants.
16-1603. Conflicting Ordinances: Standard Adopted.

16-1601. **RESPONSIBILITIES OF THE PARK MANAGEMENT.**

1. The person to whom a license for a mobile home park is issued shall operate the park in compliance with this title and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

2. The park management shall notify park occupants of all applicable provisions of this title and inform them of their duties and responsibilities under this title.

3. The park management shall supervise the placement of each mobile home on its mobile home stand which includes securing its stability and installing all utility connections.

4. The park management shall maintain a register containing the names of all park occupants identified by lot number or street address. Such register shall be available to any authorized person inspecting the park.

5. The park management shall notify the Health Authority immediately of any suspected communicable or contagious disease within the park.

16-1602. **RESPONSIBILITIES OF PARK OCCUPANTS.**

1. The park occupant shall comply with all applicable requirements of this title and shall maintain his mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.

2. The park occupant shall be responsible for proper placement of his mobile home on its mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.

3. Pets, if permitted in the park, shall be prohibited to run at large or to commit any nuisance within the limits of any mobile home lot.

4. Skirtings, porches, awnings and other additions shall be installed only if permitted and approved by the park management. Where installed they shall be maintained in good repair. The space immediately underneath a mobile home shall be used for storage only if permitted by the park management. If permitted, the following conditions shall be satisfied:

   a. The storage area shall be provided with a base of impervious material.

   b. Stored items shall be located so as not to interfere with the underneath inspection of the mobile home.

   c. The storage area shall be enclosed by skirting.

5. The park occupant shall store and dispose of all his rubbish and garbage in a clean, sanitary and safe manner. The garbage container shall be rodent-proof, insect-proof and watertight.

6. First aid fire extinguishers for Class B and C fires shall be kept at the premises and maintained in working condition.

16-1603. **CONFLICTING ORDINANCES: STANDARD ADOPTED.** ln any case where a provision of this title is found to be in conflict with a provision of any other ordinance or code of the City of Harwood adopted and enacted concurrently herewith, the provision which, in the judgment of the City establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. ln any case where a provision of this title is found to be in conflict with a provision of any other ordinance or code of the City of Harwood adopted and enacted concurrently herewith, which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this title shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this title.

TITLE XVII

TREES

CHAPTERS:

17-01. City Tree Board.

CHAPTER 17-01

CITY TREE BOARD

SECTIONS:

17-0101. Definitions.
17-0102. Separability.
17-0103. Creation and Establishment of a City Tree Board.
17-0104. Term of Office.
17-0105. Compensation.
17-0106. Duties and Responsibilities.
17-0107. Operation.
17-0108. Street Tree Species to be Planted.
17-0109. Spacing.
17-0110. Distance from Street Corners and Fireplugs.
17-0111. Utilities.
17-0112. Public Tree Care.
17-0113. Trimming; Corner Clearance.
17-0114. Dead or Diseased Tree Removal on Private Property.
17-0115. Interference with City Tree Board.
17-0116. Arborists License and Bond.
17-0117. Review by City Council.
17-0118. Penalty.

17-0101. 1. **DEFINITIONS.** For the purposes of this ordinance, the following terms, phrases, words, and their deviations shall have the meaning given herein:

A. "City" is the City of Harwood, State of North Dakota, and shall mean all land in the municipal boundary, parks, and lagoon.

B. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

C. "Streets" means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

D. "Boulevard" means the space between the sidewalk or the normal location of the sidewalk and the curb line or curb.

E. "Width of Boulevard" means the distance between the sidewalk or the normal location of the sidewalk and the curb line or curb.

F. "Property Lines" means the outer boundaries of any lot or parcel of land.

G. "Property Owner" shall mean the person owning such property as is shown by the Cass County, North Dakota Recorder.

H. "Street Trees" are herein defined as trees, shrub bushes, and all other woody vegetation on land lying between the property lines on either side of all streets, avenues, or ways within the City.

I. "Park Trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

17-1702. **SEPARABILITY.** Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof; other than the part declared to be invalid.

17-1703. **CREATION AND ESTABLISHMENT OF A CITY TREE BOARD.** There is hereby created and established a City Tree Board for the City of Harwood, North Dakota, which shall consist of five members, citizens and residents of this City, including a non-resident, approved by the City Council.

17-1704. **TERM OF OFFICE.** The term of the five persons to be appointed by the Mayor shall be three years, except that the term of two of the members appointed to the first Board shall be for only one year, and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

17-1705. **COMPENSATION.** Members of the Board shall serve without compensation.

17-1706. **DUTIES AND RESPONSIBILITIES.** It shall be the responsibility of the Board to study, investigate, council and develop and/or update annually a written plan for the care, preservation, trimming, planing, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. Such plan

will be presented annually to the City Council and, upon their acceptance and approval, shall constitute the official comprehensive city tree plan for the City of Harwood, North Dakota.

The City Tree Board or its Agent shall be responsible for the planting, pruning, and removal of all trees located within the street rights-of-ways, easements, alleys and parks of the City. The owner of land abutting on any street may, when acting within the provisions of this ordinance, prune, spary, plant or remove trees in that part of the street abutting his land not used for public travel. A street tree permit shall be required only when the owner of the property intends to deviate from the rules and regulations contained in this ordinance.

The Board, when requested by the City Council, shall consider, investigate, make funding, report and recommend upon any special matter of question coming within the scope of its work.

17-0107. **OPERATION.** The Board shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

17-0108. **STREET TREE SPECIES TO BE PLANTED.** No species of trees other than trees or shrubs implemented by the Tree Board shall be planted as Street Trees without written permission of the City Tree Board.

17-0109. **SPACING.** The spacing of Street Trees will be in accordance with the three species size classes, and no trees may be planted closer together than the following: Small Trees - 20 feet; Medium Trees - 30 feet; and Large Trees - 40 feet.

17-0110. **DISTANCE FROM STREET CORNERS AND FIREPLUGS.** No Street Tree shall be planted closer than 20 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street Tree shall be planted closer than 10 feet of any fireplug.

17-0111. **UTILITIES.** No Street Trees, other than those species listed as Small Trees, may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

17-0112. **PUBLIC TREE CARE.** The City shall have the right to plant, trim, spray, preserve or remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to ensure safety when

servicing City utilities or to preserve the symmetry and beauty of such public grounds. The City Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pests.

17-0113. **TRIMMING; CORNER CLEARANCE.** Every owner of any tree overhanging any street or right-of-way within the City shall trim the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or right-of-way. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light, or interferes with visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way.

17-0114. **DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.** The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the City. The City Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner’s property tax notice.

17-0115. **INTERFERENCE WITH CITY TREE BOARD.** It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of his agents, or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, park trees, or trees on private grounds, as authorized in this ordinance.

17-0116. **ARBORISTS LICENSE AND BOND.** It shall be unlawful for any person or firm to engage in the business or occupation of trimming, pruning, treating, or removing street or park trees within the City, without first applying for and procuring a license. The license fee shall be $25 annually in advance; provided, however, that no license shall be required of any public service company of City employee doing such work in the pursuit of their public service endeavors. Before any license shall be

issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of $50,000 for bodily injury and $10,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

17-0117. **REVIEW BY CITY COUNCIL.** The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council, who may hear the matter and make a final decision.

17-0118. **PENALTY.** Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed $100.