TITLE I.

CITY GOVERNMENT - GENERAL PROVISIONS

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CHAPTER 1-01

THE ENACTING ORDINANCE.

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1-0101. **TITLE OF ORDINANCES**. The ordinances of the City of Mapleton shall be known as the Revised Ordinances of 2000 of the City of Mapleton, North Dakota.

1-0102. **REPEAL--EXCEPTIONS**. All ordinances of the City of Mapleton adopted prior to March 13, 2000, are hereby repealed, except the following ordinances which shall continue in full force and effect regardless of the fact that they are herein omitted.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 2000 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 2000 of the City of Mapleton, 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 2000.

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 2000 of the City of Mapleton, 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.

1-0106. **REQUIREMENTS FOR CITY OFFICIALS**. A license, permit, or other City approval or authorization of any kind may be granted only to an applicant who:

1. has complied with all relevant statutory, charter and ordinance requirements;

2. has paid all fees, charges, taxes, special assessments and other debts or obligations that are due from the applicant and payable to the City regarding any matter; and

3. is in compliance with all ordinance requirements and attached conditions regarding other City approvals that have been granted to the applicant for any matter.

Source: Ord. 201-10, Sec. 1 (2010).

1-0107. **REQUIREMENTS FOR CITY APPROVALS – EXCEPTIONS**. The requirements of Section 1-0106(2) and (3) may be waived in the following circumstances:

1. the applicant has provided sufficient safeguards to assure payment of debts or compliance with City requirements within a reasonable time after the City approval; or

2. enforcement of the requirements would result in a significant hardship to the applicant through no fault of his/her own or would result in an otherwise unfair situation.

Source: Ord. 201-10, Sec. 1 (2010).

CHAPTER 1-02

ORDINANCES

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1-0201. Voting Record.
1-0202. Reconsideration or Rescinding Vote.
1-0203. Procedure in Passing Ordinances.
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1-0210. Constitutionality - Ordinances - Construction.
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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 Mapleton 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 paper 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 Mapleton 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 $1,000. The Municipal Judge shall have the authority to establish the penalty for each infraction which is an offense up to

a maximum of $1,000, except for offenses for which a penalty is set by State law, in which case the court must sentence in accordance with State law. 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 $1,500, or 30 days imprisonment, or both.

Source: Ord. 216-13, Sec. 1 (2015)

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.
1-0307. E lection of Council.

1-0301. **MEETINGS: REGULAR DAY HELD**. The City Council of the City of Mapleton shall meet in regular meetings on the second (2nd) Tuesday of each month.

Source: Ord. 197-07, Sec. 1 (2009); Ord. 203-10, Sec. 1; Ord. 231-17, Sec. 1 (2017)

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 Mapleton 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 Mapleton, 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.

1-0307. **ELECTION OF COUNCIL**. All Council members in the City of Mapleton shall be elected at large.

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**. Pursuant to Section 3, subdivision 4 of the Mapleton Home Rule Charter, the Mayor, with the consent and approval of the City Council, may remove or suspend an appointive officer. The City Council, by majority vote, may remove or suspend an appointive officer. “Acting officers” may be removed at any time by the governing body.

Source: Ord. 199-08, Sec. 1 (2008)

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 Mapleton 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 Mapleton 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 Mapleton hereinafter referred to as Mapleton Civil Defense. The Mapleton 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 Mapleton who may or may not be a commissioned member, who shall be responsible to the Council. The Mapleton 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 Mapleton 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 Mapleton 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 Mapleton 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 Mapleton 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 Mapleton 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.
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1-0806. Factors to be Considered in Sentencing.
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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.
1-0814. Transfer of all Municipal Cases to District Court.

1-0801. **CONVENING OF THE COURT**. The municipal court of the City of Mapleton 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 Mapleton shall convene and sit at the Community Center in the City of Mapleton, 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 Mapleton 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 presentence 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 Mapleton, or if a defendant fails to appear for any scheduled court appearance before the Municipal Court of the City of Mapleton, 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.

1-0814: **TRANSFER OF ALL MUNICIPAL CASES TO DISTRICT COURT**. All municipal ordinance cases from and after January 1, 2007, of the Municipal Court of the City of Mapleton shall be transferred to the Cass County District Court. These cases are deemed district court cases for the purposes of appeal. The City Council of the City of Mapleton may abolish, by resolution, the office of municipal judge. The term of the office of the municipal judge elected to serve shall terminate upon the date the City Council, by resolution, abolishes the office of municipal judge.

Source: Ord. 190-06, Sec. 1 (2006)

CHAPTER 1-09
(Source: Ord. 191-06, Sec. 1 [2007])

SALES AND USE TAX.

SECTIONS:

1-0901. Definitions.
1-0902. Sales Tax Imposed.
1-0903. Use Tax Imposed.
1-0904. Gross Receipts of Alcoholic Beverages.
1-0905. Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment.
1-0906. Exemptions.
1-0907. RESERVED FOR FUTURE USE. (Repealed by Ord. 263-23)
1-0908. Collection and Administration.
1-0909. Contract with State Tax Commissioner.
1-0910. Corporate Officer Liability.
1-0911. Dedication of Tax Proceeds.
1-0912. Saving Clause.

1-0901. **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.

1-0902. **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 two percent (2% 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 Mapleton, North Dakota.

Source: Ord. 204-10, Sec. 1 (2010); Ord. 263.23, Sec. 1 (2024)

1-0903. **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 Mapleton, North Dakota, of tangible personal property purchased at retail for storage, use, or consumption in this City, at the rate of two percent (2%) 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 Mapleton.

Source: Ord. 204-10, Sec. 2 (2010); Ord. 263-23, Sec. 2 (2024)

1-0904. **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 two percent (2%) 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 two percent (2%).

Source: Ord. 204-10, Sec. 3 (2010); Ord. 263-23, Sec. 3 (2024)

1-0905. **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 two percent (2%) 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 two percent (2%).

Source: Ord. 204-10, Sec. 4 (2010); Ord. 263-23, Sec. 4 (2024)

1-0906. **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 article.

1-0907. **RESERVED FOR FUTURE USE**.

1-0908. **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.

1-0909. **CONTRACT WITH STATE TAX COMMISSIONER**. The City Auditor for the City of Mapleton 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.

1-0910. **CORPORATE OFFICER LIABILITY**. Officers of any corporation required to remit taxes imposed by this article are personally liable for the failure of the corporation to file required returns or remit required payments. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The tax, penalty, and interest due may be assessed and collected pursuant to the provisions adopted by this article.

1-0911. **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. 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.

1-0912. **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.