

CHAPTER TWO
ORDINANCES

ARTICLE 1 - PROCEDURE

2.0101 Procedure in Passing Ordinances

All ordinances shall be read twice and the second reading and final passage shall not be had in less than one week after the first reading. After the first reading and before final passage, an ordinance may be amended. Except as otherwise specifically provided, a majority of all of the members of the City Council must concur in the passage of an ordinance and in the creation of any liability against the city, and in expending and in appropriating money.

Source: Section 40-11-02 NDCC

2.0102 Yes and No Vote on Passage - When Required - Reconsideration or Rescinding Vote

The yes and no votes shall be taken and entered in the minutes of the governing body's proceedings upon the passage of all ordinances and upon all propositions creating any liability against the City, or providing for the expenditure or appropriation of money, and in all other cases at the request of any member.

No vote of the City Council shall be reconsidered or rescinded at a special meeting unless, at such special meeting, there is present as large a number of members as was present when such vote was taken.

Source: Section 40-11-03 NDCC and City of Medora Ordinances of 1970

2.0103 Ordinances Adopted - Mayor's Veto Power - Reconsideration After Veto

An ordinance adopted by the City Council is not enacted until it is approved by the Mayor or passed over the Mayor's veto. An ordinance passed by the City Council shall be deposited in the office of the City Auditor for the approval of the Mayor. If the Mayor approves such ordinance, he or she shall sign the same. An ordinance not approved by the Mayor shall be returned by him or her with his or her objections thereto in writing to the next regular or special meeting of the Council, occurring not less than five days after the passage thereof. The veto may extend to an entire ordinance or to any one or more items or appropriations contained in any ordinance making an appropriation. If a veto extends to a

part only of an ordinance, the residue shall take effect and be in force. If the Mayor fails to return any ordinance with his or her objections thereto within the time specified in this section, he or she shall be deemed to have approved the same. Any ordinance which has been vetoed in whole or in part may be reconsidered by the City Council, and if two-thirds of its members shall pass such ordinance, it shall be effective notwithstanding the veto. The vote to pass an ordinance over the Mayor's veto shall be taken by yes and no votes and entered in the journal.

Source: Section 40-11-05 NDCC

2.0104 Publication of Ordinances

The title and penalty clause of every ordinance imposing any penalty, fine, imprisonment, or forfeiture for violation of its provisions after the final adoption of such ordinance, shall be published in one issue of the official paper of the municipality.

Source: Section 40-11-06 NDCC

2.0105 Effective Date of Ordinances

Ordinances finally approved by the governing body of a municipality and which require publication shall take effect and be in force from and after the publication thereof, unless otherwise expressly provided in the ordinance. Ordinances which do not require publication shall take effect and be in force from and after the final approval thereof unless otherwise expressly provided therein.

Source: Section 40-11-07 NDCC

2.0106 Effect of Repeal

When any ordinance repealing a former ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided.

Source: City of Medora Ordinances of 1970

2.0107 Ordinance Book Required - Ordinance Book and Certified Copy of Ordinances as Evidence

The City of Medora shall keep an ordinance book. The City Auditor shall record in such book all ordinances finally passed and approved, and when any ordinance has been published the Auditor shall record therein the affidavit of publication or posting. The

ordinance book, or copies of ordinances as recorded therein, certified by the City Auditor, shall be received as evidence without further proof. If the ordinances of the City have been printed in book or pamphlet form by authority of the City Council, such book or pamphlet

shall be received as evidence of the existence of the ordinances therein contained.

Source: Section 40-11-08 NDCC

2.0108 Enactment and Revisions 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 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.

Source: Section 40-11-09 NDCC

2.0109 Action for Violation of Ordinance in Corporate Name - Previous Prosecution - Recovery or Acquittal - No Defense

Any action brought to recover any fine, to enforce any penalty, or to punish any violation of an ordinance of any municipality shall be brought in the corporate name of the municipality as plaintiff. A prosecution, recovery or acquittal for the violation of any such ordinance may not constitute a defense to any other prosecution of the same person for any other violation of any such ordinance, notwithstanding that the different claims for relief existed at the time of the previous prosecution and if united would not have exceeded the jurisdiction of the court.

Source: Section 40-11-10 NDCC

2.0110 Summons to Issue on Violation of Ordinance - When Warrant of Arrest to Issue

In all actions for the violation of an ordinance, the first process shall be a summons, but a warrant for the arrest of the offender shall be issued upon the sworn complaint of any person that an ordinance has been violated and that the person making the complaint has reasonable grounds to believe the person charged is guilty of such violation. Any person arrested under a warrant shall be prosecuted according to the laws of the State of North Dakota.

Source: Section 40-11-11 NDCC

2.0111 Commitment of Guilty Person for Non-Payment of Fines or Costs

Any person upon whom any fine or costs, or both, has been imposed for violation of a municipal ordinance may, after hearing, be committed, upon order of the court, to jail or other place provided by the municipality for the incarceration of offenders until the fine or costs, or both, are fully paid or discharged by labor as provided in Section 40-18-12 NDCC. The court may not commit a person under this section when the sole reason for his or her non-payment of fine or costs, or both, is his or her indigency. An order of commitment under this section shall not be for a period in excess of thirty days.

Source: Section 40-11-12 NDCC

2.0112 Sentencing Alternatives - Suspension of Sentence or Imposition of Sentence

The laws and procedures regarding sentencing of the State of North Dakota are hereby incorporated by reference in this ordinance. The court may suspend any sentence the judge imposes, defer the imposition of any sentence, or defer prosecution of the accused during the good behavior of any person adjudged to have committed an offense, or for other reasonable cause as allowed under the laws of this state.

Source: Section 40-18-13 NDCC

2.0113 Presumption of Regular Adoption, Enactment, or Amendment of Resolution or Ordinance

Three years after the adoption or amendment of a resolution or the enactment or amendment of an ordinance by the governing body of a city, it is conclusively presumed that the resolution or ordinance was adopted, enacted, or amended and published as required by law.

Source: Section 40-11-09.1 NDCC

2.0114 Fines and Forfeitures for Violation of Ordinances Paid into Treasury

All fines, penalties, and forfeitures collected for offenses against the ordinances of a city, including those fines, penalties, or forfeitures collected as a result of a judgment of a court rendered pursuant to Section 40-18-19 NDCC, shall be paid into the city's treasury at such time and in such manner as may be prescribed by ordinance or contract with appropriate judicial authorities.

Source: Section 40-11-13 NDCC

2.0115 General Penalties for Violation

In case no other specific penalty is prescribed for the violation of any section or provision of any ordinance of the City of Medora, any person found guilty of violating the same shall be punished by a fine of not more than \$500.00 or by imprisonment not to exceed 30 days, or both such fine and imprisonment in the discretion of the court with regard to any offense against an ordinance of the City. Any person found guilty of an infraction shall be punished by a fine of not more than \$500.00 in the discretion of the court. The court is to have the power to suspend said sentence or revoke the suspension thereof, defer imposition of the sentence, or defer prosecution as provided by the laws and criminal procedure of the State of North Dakota. Each day any person, firm, association or corporation shall violate any section or provision of any Article shall constitute a separate offense.

Source: Section 12.1-32-01 NDCC