

**CHAPTER TWO  
ORDINANCES  
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## CHAPTER TWO ORDINANCES

### ARTICLE 1 - PROCEDURE

#### 2.0101 Enacting Clause for Ordinances

The enacting clause for every ordinance adopted by the City of Cando shall be “**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANDO**”. Such caption, however, may be omitted where the ordinances are published in book form or are revised and digested. (Source: NDCC Section 40-11-01)

#### 2.0102 Procedure in Passing Ordinances - Mayor's veto power

All ordinances shall be read twice, and the second reading shall not be had in less than one week after the first reading. After the first reading, before their final passage, ordinances may be amended, and then shall then be put upon second reading and final passage; and, if passed by City Council, shall be signed by the Mayor and attested by the City Auditor.

An ordinance or resolution adopted by the City Council is not enacted until the mayor approves it or passed over the mayor's veto.

An ordinance or resolution passed by the City Council of the City of Cando shall be deposited in the Office of the City Auditor for approval of the mayor. If the mayor approves such ordinance or resolution, he shall sign the same.

An ordinance or resolution not approved by the mayor shall be returned by him with his objections thereto in writing to the next regular or special meeting of the Council occurring not less than five (5) days after passage thereof.

The veto may extend to an entire ordinance or resolution or to any one or more items or appropriations contained in any ordinance or resolution making such an appropriation. If a veto extends to a part only of an ordinance or resolution, the residue shall take effect and be in force.

If the mayor fails to return any ordinance or resolution with his objections thereto within the time specified in this section, he shall be deemed to have approved the same.

Any ordinance or resolution which has been vetoed in whole or in part may be reconsidered by the Council Members, and if two-thirds (2/3) shall pass such ordinance or resolution, it shall be effective notwithstanding the veto. The vote to pass an ordinance or resolution over the mayor's veto shall be taken by yeas and nays and entered in the journal.

#### 2.0103 Yea and Nay Vote on Passage – When Required

The yeas and nays shall be taken and entered on the journal of the City Council 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. A member of the City Council who passes their vote, or who remains silent when the roll call on the vote is taken, shall be deemed to have voted yea and a record of yea shall be entered in the journal. (Source: North Dakota Century Code Section 40-11-03)

#### 2.0104 Reconsideration or Rescinding Vote

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 its members as were present when such vote was taken. (Source: North Dakota Century Code Section 40-11-05)

#### 2.0105 Publication of Ordinances

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 issue of the official paper of the city. (Source: North Dakota Century Code Section 40-11-06) (See also 2.0108 below)

#### 2.0106 Effective Date of Ordinances

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. (Source: North Dakota Century Code Section 40-11-07)

#### 2.0107 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.

#### 2.0108 Enactment and Revision of Ordinances

The provisions of Section 40-11-09 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

The Mayor may appoint, by and with the advice and consent of the City Council, one or more competent persons to prepare and submit to City Council for its adoption or rejection, an ordinance for the revision or amendment of existing ordinances or for the enactment of new and additional ordinances. The City Attorney shall be appointed as one of the persons to prepare and submit such ordinance. The compensation of the reviser or revisers, including that of the attorney, shall be determined by the City Council and shall be paid out of the City 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 City Council and shall be valid and effective without publication in a newspaper or posting.

#### 2.0109 Presumption of regular adoption, enactment, or amendment of resolution or ordinance.

The provisions of Section 40-11-09.1 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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

#### 2.0110 Action for Violation of Ordinance in Corporate Name – Previous Prosecution, Recovery or Acquittal – No Defense

The provisions of Section 40-11-10 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Any action brought to recover any fine, to enforce any penalty or to punish any violation of an ordinance shall be brought in the corporate name of the City 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.

2.0111 Summons to Issue on violation or Ordinance – When Warrant of Arrest to Issue

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

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 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 taken without unnecessary delay before the proper officer to be tried for the alleged offense.

2.0112 Commitment of Guilty Person for Non-payment of Fines or Costs

The provisions of Section 40-11-12 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Any person upon whom any fine or costs, or both, has been imposed may, after hearing, be committed upon order of the court to jail or other place provided by the City 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. The court may not commit a person under this section when the sole reason for his nonpayment of fine or costs, or both, is indigence. An order of commitment shall not be for a period in excess of thirty days. As used in this section, "fine" does not include a fee established pursuant to subsection 2 of Section 40-05-06 of the North Dakota Century Code

2.0113 Cost of Prosecution

In every case of conviction of a violation of any ordinance, or any part thereof, the cost of prosecution shall be assessed against the person convicted, as part of the punishment.

2.0114 Judgment of Conviction

In all trials, if the defendant is found guilty, the Municipal Judge shall render judgment accordingly. It shall be a part of the judgment the defendant stand committed until such judgment is complied with, and, at the discretion of the municipal court, he may be required to work for the city at such labor as the defendant's strength and health will permit under the provisions of Section 40-18-12 of the North Dakota Century Code.

2.0115 Refusal to Work

Any person refusing to perform the court ordered manual labor shall be deemed in contempt of court and shall be punished accordingly. No credit shall be allowed on account of such fines and costs for the date or days that such person refuses to perform manual labor.

2.0116 Fines and Forfeitures for Violation of Ordinances Paid to City Treasury

All fines, penalties and forfeitures collected for offenses against the ordinances of the City shall be paid into the City's treasury each Quarter.

**ARTICLE 2 – Penalty**

Any person who is convicted of violating or failing to comply with any of the provisions of this Chapter may be punished by a fine of not more than \$1000.00 or by imprisonment not to exceed 30 days or both.

It shall be the Municipal Judge's decision to use the sentencing defined in Article 5 of Chapter 13 of the Revised Ordinances of the City of Cando.