

Bottineau Municipal Code Revised

Chapter One

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Chapter One
Government Organization

ARTICLE 1 – Bottineau Municipal Code

1.0101 Municipal Code

1. Be it ordained by the City Council of the City of Bottineau, North Dakota: There is hereby adopted by the City of Bottineau, North Dakota, that certain code entitled, “BOTTINEAU MUNICIPAL CODE,” containing certain ordinances of a general and permanent nature, as compiled, consolidated, codified and indexed inclusive, of which code not less than three (3) copies have been and are now filed in the office of the City Auditor, and which is hereby adopted pursuant to the North Dakota Century Code, Section 40-11-09.

2. The provisions of such code shall be in force on and after April 7, 2014, and all ordinances of a general nature in force on April 7, 2014, and not contained in such code are hereby repealed from and after April 7, 2014, except as hereinafter provided by said Bottineau Municipal Code. (1st reading: March 28, 2014. 2nd & final reading: April 7, 2014)

1.0102 Over Persons and Property

The jurisdiction of the City of Bottineau, North Dakota, extends to all persons, places and property within its boundaries, and such extra-territorial jurisdiction as is granted to it under the provisions of the North Dakota Century Code and amendments.

1.0103 Defining City Limits

There shall be included within the municipal limits of the city all areas duly platted and recorded as being within said city; all lots and blocks shall also include all streets, alleys and public ways included within the area and adjacent thereto which are defined as within the confines of the city limits. The City Council shall have jurisdiction within the corporate city limits and over any common or public grounds belonging to the city, and in and over all places within one-half (1/2) mile of the municipal limits for the purpose of enforcing health and quarantine ordinances and police regulations, planning and zoning ordinances adopted to promote the peace, order, safety and general welfare of the municipality.

1.0104 Voting at Large

Pursuant to North Dakota Century Code §40-08-04.2, the election of all Council Members will be under an “at large” system, and the previously designated wards in the city are hereby abolished.

1.0105 City Fines and Penalties Limited

1. The provisions of Section 40-05-06 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

2. This section shall not be construed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provided by NDCC Section 12.1-32-02 for the violation of a City ordinance, nor shall this section limit the use of deferred or suspended sentences pursuant to NDCC Chapter 12.1-32. The maximum possible fine or penalty for a violation of any section of the Bottineau Municipal ordinance, not otherwise specified, shall be a fine of up to \$1,000.00 or 30 days imprisonment, or both.

ARTICLE 2 - Governing Body - City Council

1.0201 City Council - Who Constitutes

The governing body of the city shall be the City Council which shall be composed of the mayor and council members. The mayor and 8 council members shall be elected as provided by law.

1.0202 Regular Meetings

The City Council shall meet regularly at the City Hall on the first Monday of each month at the hour of 7:00 p.m. unless some other time and place shall be specifically fixed by the council. The council shall meet in addition thereto, as often as required by Section 40-08-10 of the North Dakota Century Code.

1.0203 Special Meetings

Special meetings may be called at any time by the mayor or any two (2) members of the governing body to consider matters mentioned in the call of such meetings. Notice of any special meeting shall be given to each member of the governing body at least three hours before the time of the meeting.

1.0204 Meeting to be Public - Journal of Proceedings to be Kept

All meetings of the governing body shall be open to the public, and a journal of its proceedings shall be kept. Notice of the regular meeting time or of special meeting shall be given as provided by Section 44-04-20 of the North Dakota Century Code and amendments.

1.0205 Term of Office of Council Members

Council members shall hold office for four years and until their successors are elected and qualified. Terms of council members shall be arranged so that only one-half of the council members shall be elected in any one election.

1.0206 Salaries of Elected Officers Fixed by Ordinance or Resolution

Any elected officer of this city shall receive the salary, fees or other compensation fixed by ordinance or resolution within the limitations set by NDCC Section 40-08-07, 40-08-15 and 40-18-06.

1.0207 Proceedings – Rules of Order

Except as may otherwise be provided by law, the proceedings of the City Council shall ordinarily be conducted according to Robert's Rules of Order; provided, that a failure to observe or enforce such rules shall in no manner affect the regularity, validity or legality of any action or proceeding taken by the council. The City Council, in its discretion, hereby reserves the right to proceed at any time otherwise than as prescribed in Robert's Rules of Order.

1.0208 Appointment of President and Vice President

At the first regular meeting after the biennial election, the City Council shall proceed to elect from its own members a president and a vice president, who shall hold their respective offices for two years.

1.0209 Duties of President and Vice President of Council

It shall be the duty of the president, in the absence or temporary disability of the mayor, to act as presiding officer of the council, and he shall, during the absence of the mayor from the city or his temporary disability, be acting mayor and possess all the powers of the mayor. In the absence or disability of the mayor and president of the council, the vice president shall perform the duties of mayor and

president of the council; provided, that all warrants on the treasury signed by the president or vice president shall be signed in his official capacity as acting mayor.

1.0210 Vacancies on Council or in Office of Mayor - How Filled

1. If a vacancy occurs in the office of a council member by death, resignation or otherwise, the City Council may call a special City Election to fill such vacancy for the unexpired term or may, after fifteen days of the date of such vacancy appoint a person to fill such vacancy until the next City Election, at which election the unexpired term shall be filled. Upon petition of five percent of the electors, as determined by the total number of votes cast in the last general election, the council shall call a special election to fill a vacancy occurring more than six months before the next City Election, provided such petition has been submitted with in fifteen (15) days and before 4:00 p.m. of the fifteenth (15th) day of the date of such vacancy or of the vacancy being filled by appointment. If the petition is mailed, it shall be in possession of the council or its representative before 4:00 p.m. on the fifteenth (15th) day after the vacancy occurs or after the vacancy was filled by appointment.

2. If a vacancy occurs in the office of mayor, the City Council may call a special City Election to fill such vacancy for the unexpired term or may, after fifteen days from the date of such vacancy, elect one of its members to act as the mayor, the member so elected shall possess all of the rights and powers of the mayor until the next election and until a mayor is elected and qualified. Upon petition of five percent of the electors, as determined by the total number of votes cast in the city in the last General Election, the council shall call a special election to fill a vacancy occurring more than six months prior to the next City Election, provided such petition is submitted within fifteen days of the date of such vacancy. During the interim between date when a vacancy occurs in the office of the mayor and election and qualification of a successor, the president of the City Council shall be acting mayor.

1.0211 Management and Control of City Property

All property owed or controlled by the city shall be under the control of the City Council, and shall be managed, used and cared for under such rules and regulations as may be established by resolution or ordinance.

1.0212 Mayor – Term of Office

The chief executive officer of the city is the mayor. The mayor shall be a qualified elector within the city and shall hold office for four years and until a successor is elected and qualified.

1.0213 Mayor to Preside at Council Meetings - Voting Power of Mayor

The mayor shall preside at all meetings of the City Council, but shall not vote except in case of a tie, when he shall cast the deciding vote.

1.0214 Mayor May Remove Appointive Officers - Reasons for Removal to be Given

The mayor may remove any office appointed by him whenever he is of the opinion that the interests of the city demands such removal, but he shall report the reasons for such removal to the council at its next regular meeting.

1.0215 Mayor May Suppress Disorder and Keep Peace

The mayor may exercise within the city limits the powers conferred upon the sheriff to suppress disorder and keep the peace.

1.0216 Inspection of Books, Records and Papers of City by Mayor

The mayor, at any time, may examine and inspect the books, records and papers of any agent, employee or officer of the city.

1.0217 Ordinance or Resolution Signed or Vetoed by Mayor

The mayor shall sign or veto each ordinance or resolution passed by the council.

1.0218 Message to Council

The mayor annually and from time to time shall give the council information relative to the affairs of the city and shall recommend for consideration such measures that he may deem expedient.

1.0219 Mayor May Call on Male Inhabitants to Aid in Enforcing Ordinances

When necessary, the mayor may call on each male inhabitant of the city over the age of eighteen years to aid in the enforcing of the laws and ordinances of the city.

1.0220 Mayor May Administer Oath

The mayor of the city may administer oaths and affirmations.

ARTICLE 3 - Elections

1.0301 Regular and Special Elections

1. Regular and special elections shall be held as provided by law.
2. Special elections may be called by resolution of the City Council, and notice shall be given by the council of the time and place of holding such elections by publication in the city paper published in the city. All special elections shall be held at the same place, during the same hours, under the charge of the same election officers, and generally in the same manner, as near as may be, as general city elections.

1.0302 Ballots in Municipalities - Arrangement

The provision of Section 40-21-08 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1.0303 Ballots or Voting Machines – Certificates of Nominating and Petitions

The ballots or voting machines containing the name of candidates and the propositions to be voted on, shall be placed on and arranged in the same general form as ballots for regular city elections; the same shall be printed or arranged under the direction of the City Auditor. All certificates of nomination and petitions shall be filed with the City Auditor not less than twenty (20) days before such election.

1.0304 Canvassing of Votes

The vote at such special elections shall be canvassed and the result announced by the City Council at its next regular meeting after such special election, or at a special meeting called for that purpose.

ARTICLE 4 - Elective Officers Other Than Governing Body

1.0401 Municipal Judge

1. There shall be elected each four (4) years a municipal judge who shall hold office until a successor is elected and qualified. The municipal judge shall perform all the duties prescribed by law and the ordinances of this city. The municipal judge shall receive an annual salary as full compensation for all services rendered.

2. It shall be the duty of the municipal judge to make a full report under oath, of all proceedings in the actions or matters before him in which the city is a party, or interested therein, to the governing body of the city at the close of each month. Until such report has been filed with the City Auditor, no salary shall be paid the judge for such work.

3. The municipal judge shall be in attendance at municipal court for the transaction of business that may come before him and shall devote the time necessary to handle and dispose of the business coming before him.

4. Additional duties of the municipal judge shall be as provided by the provisions of Chapter 40-18 of the North Dakota Century Code and all amendments.

ARTICLE 5 - Appointive Offices

1.0501 Appointive Officers in Council Cities

1. The mayor, with the approval of the City Council, shall appoint the following officers:

- A. City Auditor;
- B. City Assessor;
- C. City Attorney;
- D. City Engineer;
- E. Such other officers as the City Council deems necessary and expedient.

2. The City Council, by majority vote, may dispense with any appointive office and provide that the duties of that office be performed by others.

1.0502 Failure of Council to Confirm Appointment

In case of a failure of the City Council to confirm any such appointment, the mayor shall immediately make another appointment to be acted upon in like manner by the City Council and shall so proceed until all of such offices are filled. An appointee twice rejected by the City Council cannot a third time be appointed by the mayor.

1.0503 Duties

Such officers shall perform the duties prescribed by the statutes of the state and by the provisions of this code and other ordinances of the city and by the rules and regulations which may from time to time be prescribed by the mayor and City Council.

1.0504 General Duties of Other Appointive Officers

All other appointive officers shall perform such duties as directed by the City Council, directed by these ordinances or directed or authorized by the laws of the state of North Dakota.

1.0505 Term of Office – Oath

Subject to the power of removal as provided by the North Dakota Century Code, Section 40-08-19, the term of office of each appointive officer shall be for a period of two years from the date of such appointment as provided by the North Dakota Century Code, Section 40-14-05, except that where an appointment is made to fill out a vacancy, it shall be for the remainder of such unexpired term. In each case such officer is to hold office until his successor is appointed and qualified. Any appointive officer shall take the oath as provided by the North Dakota Century Code, Section 40-13-03.

1.0506 Removal – Filling Vacancies

Any officer appointed by the mayor may be removed by the mayor as provided by the North Dakota Century Code, Section 40-08-19. At the next regular meeting of the council after the removal of any officer, the mayor shall submit to the council his reason in writing for the removal of such officer, and his appointment of a successor, whereupon the council shall proceed to ballot on the appointment as in the case of an original appointment as provided in Section 1.0501. In case of a vacancy from any other cause, it shall be filled in like manner as an original appointment.

ARTICLE 6 – Duties of Officers and Qualifications

1.0601 Duties and Salary of Mayor

1. The mayor shall perform such duties as are prescribed by law, the provisions of this code and other ordinances of the city. He shall when present preside at all meetings of the City Council and the board of equalization. He shall keep his office in the City Hall, and shall devote such time as shall be necessary to properly perform the duties of his office.

2. The mayor shall receive, as compensation for the faithful performance of his or her duties, a salary of \$750.00 per month, effective on January 1, 2009.

1.0602 Duties and Salary of Alderman

1. Each alderman shall perform the duties provided by law, the provisions of this code and other ordinances of the city. He shall attend all regular and special meetings of the City Council, and of his particular committee, and of the board of equalization, unless absent from the city.

2. Each alderman of the Bottineau City Council shall receive, as compensation for the faithful performance of his or her duties, a salary of \$250.00 per month, effective on January 1, 2009.

1.0603 Municipal Judge

The municipal judge shall perform the duties provided by the laws of the state, provisions of the code and the other ordinances of the city. He shall turn over to the City Auditor at the end of every month, all money collected by him.

1.0604 City Attorney

The City Attorney shall be the legal advisor of the city, and shall represent the city in all litigated matters; shall furnish to the City Council or any member thereof, or officer of the city, such legal advice as may be required pertaining to the duties of general legal advisor of the city. He shall attend all regular and special meetings of the City Council unless excused by the mayor; shall attend all hearings in the court of the municipal judge involving violations of the provisions of this code or other city ordinances, where his presence shall be requested by such court. He shall draft all ordinances bonds, contracts, leases,

conveyances and other instruments that may be required by the city. He shall, when requested, furnish written opinions upon any subject submitted to him by the mayor, the City Council or its committees. He shall perform such other legal and professional services as may be required of him by the mayor, the City Council or chairman of any standing committee of the council. He shall assist in procuring evidence in all suits or actions either for or against the city whenever requested by the mayor or other proper officer of the city to do so. He shall immediately report to the City Council and mayor the results of any action or suit in which the city is involved, and his recommendations as to the advisability of an appeal, and shall receive authority from the mayor and council before instituting any appeal in any action in which the city is involved. He shall sign any notice of appeal, undertaking or other instrument required or necessary pertaining to such litigation; he shall immediately pay over to the City Treasurer all money received by him belonging to the city, taking his receipt therefore, and filing same with the City Auditor.

1.0605 City Engineer

It shall be the duty of the City Engineer to make all plans, plats, maps, surveys, statements and estimates required by the mayor, City Council or any standing committee thereof, and to keep a record thereof in a book to be kept especially for the purpose. He shall also keep a record of all grades of streets in a book kept for that purpose. He shall cause to be accurately marked upon a map of the city kept for that purpose the location of the streets, alleys or public grounds, of all pipes, conduits, manholes, and all underground passages of every description. He shall perform all other duties required by law, the provisions of this code or other ordinances of the city.

1.0606 City Assessor

The City Assessor shall make a personal inspection of all improvements upon real property assessed by him each year; shall attend each meeting of the board of equalization, and, shall generally do and perform all such duties as are required by law, the provisions of this code and other ordinances of the city.

1.0607 General Duties of City Auditor

It shall be the duty of the City Auditor to issue the calls for all special meetings of the City Council when requested to do so by the mayor or any two (2) members of the City Council. (Source: North Dakota Century Code Section 40-08-10) He shall also keep a full and complete record of all meetings of the City Council and shall keep a book titled as the "Ordinance Book" and shall record therein at length all ordinances of the city. He shall also keep a book titled as the "Special Assessment Book" in which he shall keep all records of special assessments. All such books shall have full and complete indexes of the contents thereof. He shall report to the City Council at the end of every month a list of all warrants, interest coupons, bonds or other evidence of indebtedness which may have been redeemed or paid by him during the month and he shall duly give to the council a copy of his receipt therefore. He shall further handle all water collections, budget and annual tax levy, correspondence, permits and licenses and shall do and perform each, every and all duties and things prescribed for him to do by statutes of this state, or by an ordinance, resolution or proper instruction of the City Council.

ARTICLE 7 - Special Provisions Regarding City Officers

1.0701 Bonds of Municipal Officers and Employees

1. The following officers and employees of the city shall be bonded in the sums as hereinafter set forth:

- A. Mayor
- B. City Auditor
- C. Municipal Judge

- D. City Assessor
- E. Other appointed officers as necessary

2. Said officers or employees shall be bonded in accordance with the provisions of Section 40-13-02 and Chapter 26.1-21 of the North Dakota Century Code.

3. Appointive officers other than those specifically mentioned in this chapter shall furnish a bond as provided in the North Dakota Century Code, Section 40-13-02.

1.0702 Oaths of Municipal Officers

Every person appointed to any municipal office, before he enters upon the discharge of the duties thereof, shall take and subscribe the oath of office prescribed for civil officers and, except in the case of the auditor, shall file the same with the City Auditor within 10 days after notice of his election or appointment has been given. The oath of the auditor shall be filed in the office of the county auditor. Refusal to take the oath of office shall also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to NDCC 44-02-01.

1.0703 Administrative Policy and Procedure

PERFORM DUTIES. 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 their departments and all activities assigned thereto.
3. Keep informed as to the latest practices in their particular field and shall inaugurate with approval of the governing body such new practices as appear to be of benefit to the service and to the public.
4. Submit such reports of activities of their departments as the governing board may request.
5. Be responsible for the proper maintenance of all city property and equipment used in their departments.
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 department subordinates.
9. Be available during the hours designated by the city governing body.

1.0704 Obstructing a Public Official - Prohibited

Every person who willfully delays or obstructs a public officer in the discharge or attempt to discharge any duty of his office shall be guilty of an infraction. Upon conviction, for a violation of this section, such person shall be fined not more than one thousand dollars (\$1,000.00).

ARTICLE 8 - Purchasing and Disposition of Property

1.0801 Competitive Bidding Requirements

1. All purchase of and contracts for supplies and contractual services with a cost in excess of one hundred thousand dollars shall be based on competitive bids.

2. All supplies and contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed \$100,000.00 shall be purchased from the lowest responsible bidder after due notice inviting proposals. Due notice shall be given by advertising for the sale or purchase of the property or service by giving written notice in the official newspaper of the city for two (2) consecutive weeks and the opening of the bids so received not less than 14 days after the first publication thereof. The lowest responsible bidder shall be the bidder who, in addition to price, has the best ability, capability and skill to perform the contract or provide the service required promptly or within the specified time without delay or interference. There shall also be considered character, integrity, reputation, judgment, experience and efficiency of the bidder, the quality of performance of previous contracts, sufficiency of financial resources and previous and existing compliance with state laws and city ordinances.

1.0802 Acquisition of Supplies

The incidental office supplies for the different departments of the city shall be secured through the office of the City Auditor.

1.0803 Open Market Purchases - Emergency

When the city governing body decides by unanimous vote that an emergency requires the immediate purchase of supplies or contractual services, the purchases may be made in the open market without competitive bidding.

1.0804 Accounts Against City to be in Writing

Accounts, claims and demands against the city for any property or services for which the city shall be liable, shall be made in writing and shall include an itemized statement of the property or services provided.

1.0805 Further Verification May be Required

It is hereby provided that any officer of the City Council before whom any bill, claim, account or demand against the city shall come for audit and approval may require to be furnished a statement made under oath, containing such other information as is deemed necessary for the further verification of any bill, claim, account or demand against the city, or any of its undertakings.

1.0806 Conveyance, Sale, Lease or Disposal of Property

Real property belonging to the municipality shall be conveyed, sold, leased or disposed of, only as approved of by a two-thirds vote of all members of the governing body. Instruments affecting such conveyance, sale, lease or disposal shall be valid only when duly executed by the mayor and attested by the City Auditor. Personal property shall be conveyed by a majority vote of all members of the governing body. When the property to be disposed of, whether real property or personal property is estimated, by the governing body of the municipality to be of a value of less than \$2,500.00, such property may be sold at private sale upon the proper resolution of the governing body. In all other cases, such property may be sold only at public sale or as provided under Section 40-11-04.2 of the North Dakota Century Code (Source: North Dakota Century Code Section 40-11-04). Bids for the purchase or lease of real property belonging to the municipality, whether or not advertisement therefore has been made, shall be made directly to the governing body and submitted to the City Auditor, who shall present any and all such bids to the governing body at its next regularly scheduled meeting. When specific statutory provisions contained in the North Dakota Century Code provide for a procedure which is in conflict with this section, governing the

conveyance, sale, lease or disposal of real property, this section shall not apply insofar as it is in conflict with such state law. Said statutory procedures include the following:

1. Lease of airports or landing fields, or portions thereof shall be under authority granted in Section 2-02-06, NDCC. Said lease shall further be in compliance with regulations and directives appropriate federal agencies.
2. Conveyance of right of way for any state highway shall be as provided in Section 24-01-46, NDCC.
3. Leasing of oil and gas lands shall be as provided in Sections 38-09-02 through 38-09-04 and Sections 38-09-14 through 38-09-20, NDCC.
4. Conveyance of property to a municipal parking authority shall be as provided in Section 40-61-05, NDCC.
5. Lease of public buildings or portions thereof shall be as provided in Chapter 48-08, NDCC.
6. Granting of concessions for cafes, restaurants and confectioneries in public buildings or on public grounds shall be as provided in Chapter 48-09, NDCC.
7. Granting of right-of-way for a railway, telephone lines, electric light system or a gas or oil pipeline system shall be as provided in Section 49-09-16, NDCC.

1.0807 Real Property Transfer Requirements

The provisions of Sections 40-11-04.1 and 40-11-04.2 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

ARTICLE 9 – Standing Committees

1.0901 Established – Appointment

1. The following standing committees shall be appointed by the mayor at the organization of the council in each year or as soon thereafter as practicable:
 - A. Finance
 - B. Streets
 - C. Utilities
 - D. City Property
 - E. Health
 - F. Ordinance
 - G. Recreation (Pool)
 - H. Shade Tree
 - I. Police
 - J. Employee

K. Tax Exemption

L. Downtown Beautification

1.0902 Membership

Each standing committee shall consist of two or more members.

1.0903 Planning Commission

There is hereby created, a body to be known as the planning commission of the City of Bottineau, North Dakota. The planning commission is also known as zoning commission.

1.0904 Appointment of Members

The planning commission shall consist of eight (8) members, (1 council representative, 1 fire department representative, City Superintendent are part of the 8) who shall be appointed as hereinafter provided, and in addition thereto four members, namely, the mayor, the City Engineer, City Attorney, and the building inspector, who shall act as ex officio members of the commission.

1.0905 Terms of Members

1. The ex officio members shall serve during and for their respective terms for which they are elected or appointed, and the mayor shall within five days after the taking of effect of this chapter, appoint seven members of the planning commission who shall be residents of the city, and such appointment shall be as follows:

2. The terms of the members shall be five years. Three of the representatives shall expire on odd years; the other four members shall expire on even years thereafter. Thereafter three shall be appointed in like manner at the expiration of the terms of each member as aforesaid, a member for a term of five years.

1.0906 Confirmation by City Council of Appointments

The mayor shall submit to the City Council, at the next meeting after making such appointments, the names of the persons appointed and the length of their term and the City Council shall, by a majority vote, confirm or reject such appointment. If such appointments are rejected the mayor shall make other appointments for such appointees as may be rejected, which said appointment shall be approved or rejected in like manner.

1.0907 Meetings

The first planning commission so appointed shall meet at such times as are required. All meetings shall be held at the City Hall.

1.0908 Planning Commission – Also Zoning

The planning commission shall also serve as the zoning commission of the city to hold hearings, make reports and recommendations as to the boundaries of the various original districts and appropriate regulations to be enforced therein, and for changes in or supplements thereto.

1.0909 Powers and Compensation

The planning commission shall have such powers and shall perform such duties as may now or hereinafter be provided by law and shall receive no compensation, except that they be allowed actual expense for traveling as provided by law.

ARTICLE 10 – Police Department

1.1001 Established

Police is contracted through Bottineau County for services.

ARTICLE 11 – Bottineau Local Emergency Operation Plan

1.1101 Established

City of Bottineau shall work with the Bottineau County Local Emergency Operation Manager to consolidate the current plan and to facilitate a more expedient and organized response to local emergency and disaster operations as they occur.

ARTICLE 12 – Park District

1.1201 Established

The territory embraced in the city is declared to be a park district of the state, to be known as “Park District of the City of Bottineau,” in accordance with and under and by virtue of the provisions of Chapter 40-49 of the North Dakota Century Code. The park district having been created by Stat. Ordinance 203 on March 2, 1964, shall remain in effect as of that date.

ARTICLE 13 – Official Time – Fiscal Year

1.1301 Official Time

Central division standard time, based on the nineteenth meridian of longitude west from Greenwich, or central division daylight time, whichever may be legally in effect in the city, shall be the official time for the city. All provisions of this code or other ordinances providing for the doing or not doing of any act or thing after or before a certain time, and the time designated for holding the municipal court, or the orders made therein and the meetings of the City Council or the performance of any contract in which the city is a party where time is made an element in the transaction, shall be taken to mean the legal central standard or daylight time.

1.1302 Fiscal Year

The fiscal year of the city shall commence on January 1st of each year, and terminate on the 31st of December of each year.

ARTICLE 14 – Handling of Records and Documents

1.1401 Preservation of Records

All books, files and records of the city shall be kept at the proper offices of the city and so far as practicable, shall be kept in fireproof vaults therein when not in use.

1.1402 Turning Over Money, Property and Records to Successor

At the expiration of his term of office, each officer of the city shall turn over to his successor all books, accounts, records, money and property of whatever kind and description in his possession as such officer, and shall be entitled to a receipt therefore if desired.

ARTICLE 15 – Office Space

1.1501 Generally

The mayor and City Auditor shall have their offices in the City Hall in the rooms now being used for such purposes. The fire department and all property pertaining thereto shall be housed in the fire hall.

ARTICLES 16 – Aircraft and Airports

1.1601 Airport

Wherever in this title, the term “airport” is used, it means the Bottineau Municipal Airport.

1.1602 Adoption

All aeronautical activities at the airport and all flying of aircraft arriving at or departing from the airport in the air space which constitutes the central zone of the airport, shall be conducted in conformity with the current pertinent provisions of the civil air regulations issued by the Federal Aviation Agency.

1.1603 Taxiing Rules

1. No pilot shall taxi to or from the hangar line or to or from an approved parking space until he has ascertained that there will be no danger of collision with any person or object in the immediate area by visual inspection of the area, and when available, through information furnished by airport attendants.

2. No aircraft shall be taxied except at a safe and reasonable speed.

3. No aircraft not equipped with adequate brakes shall be taxied near buildings or parked aircraft unless an attendant is at a wing of the aircraft assisting the pilot.

1.1604 Landing and Take-Off Rules

No landing or take-off shall be made except at a safe distance from the airport buildings and aircraft.

1.1605 Fire Regulations

1. All persons using the airport area to any extent whatever, or being present on the airport for any purpose, shall at all times exercise the utmost care to guard against fire and injury to persons or property.

2. No person shall smoke within fifty feet (50) of any aircraft.

3. No aircraft shall be fueled while the engine is running.

4. All aircraft shall be positively grounded when being serviced with gasoline.

ARTICLE 17 – Home Rule Charter

1.1701 Bottineau Home Rule Charter Implemented

The City of Bottineau Home Rule Charter is hereby implemented in the following subsections.

1.1702 Incorporation

The inhabitants of the City of Bottineau within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Bottineau."

1.1703 Governing Body to Exercise Powers

Subject to the limitations imposed by the state constitution, state law, and this charter, all powers of the city shall be vested in the elected governing body. The elected governing body shall enact local legislation, adopt budgets, determine policies, and prescribe the functions of government to be performed under this charter by the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be no prescribed, then in such manner as may be prescribed by ordinance.

1.1704 Powers of City

1. The city shall have all powers granted to municipal corporations by the constitution and laws of this state and by this charter, together with all the implied powers necessary to carry into execution all powers granted.

2. Among its enumerated powers, which may be implemented by ordinance subject to the limitations specified in the charter, shall be the following:

- A. To acquire, hold, operate, and dispose of property within or without the corporate limits, and exercise the right of eminent domain for such purposes.
- B. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to levy and collect taxes, excises, fees, charges and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings and improvements; to contract debts, borrow money, issue bonds, warrants and other evidences of indebtedness; to establish charges for any city or other services, and to establish debt and mill levy limitations, provided that the mill levies ordered imposed by the governing body on taxable property subject to ad valorem taxation shall not exceed in total the sum of levies authorized by state statutes and the constitution for cities of similar classification to that of the City of Bottineau. The governing body shall be permitted to promulgate the city budget without regard to the specific dedications of mill levies to specific purposes as long as the total of the budget is not more than the total amount of mills authorized to be levied by a city.
- C. To fix fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
- D. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government including its governing body, executive officer, and city officers.
- E. To provide for City Courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
- F. To provide for all matters pertaining to city elections, except as to qualifications of electors.

- G. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.
- H. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.
- I. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.
- J. To engage in any utility, business, or enterprise permitted by the Constitution or not prohibited by statute or to grant and regulate franchises therefore to a private person, firm, or corporation.
- K. To provide for zoning, planning, and subdivision of public or private property within the city limits; to provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.
- L. To levy and collect franchise and license taxes for revenue purposes.
- M. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
- N. To fix the boundary limits of said city and the annexation and de-annexation of territory adjacent to said city except that such power shall be subject to, and shall conform with, the state law made and provided.
- O. To contract with and receive grants from any other governmental entity or agency, with respect to any local, state or federal program, project or works.
- P. To impose registration fee on motor vehicles, or sales tax and use taxes in addition to any other taxes imposed by law. Proceeds from any such tax may be pledged by the governing body to payment of principal of and interest on bonds or other debt instruments, which may be issued by the governing body to finance such projects or improvements, as the governing body may specify by ordinance or resolution, and any such tax, upon being so pledged, shall not be reduced or repealed, so long as any of such bonds or debt instruments remain outstanding.

3. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such power, it is intended that the city shall have and may exercise all powers which under the constitution and laws of this state, it would be competent for this charter specifically to enumerate.

4. The statutes of the State of North Dakota, so far as applicable, shall continue to apply except as superseded by this charter or by ordinances passed pursuant to this charter.

1.1705 Referendum and Initiative

1. The voters of the City of Bottineau shall have the power to refer and initiate ordinances and resolutions, except that the poser of initiative and referendum shall not extend to the annual appropriations ordinance, or any limitation as to the annual mill levy, nor to those ordinances or resolutions implementing public projects upon which an election has previously been held, or which provide for meeting obligations of bonded indebtedness incurred by a prior ordinance or a prior election or referendum, nor shall the power of initiative and referendum extend to special improvement projects under

which law provides for protest procedures or to special assessment projects carried out under the provisions of the North Dakota Century Code.

2. Initiative petitions must be signed by qualified voters of the city equal to at least forty (40%) percent of the total votes cast in the city at the most recent Presidential election.

3. Referendum petitions must be signed by qualified voters of the city equal to at least twenty (20%) percent of the total votes cast in the city at the most recent Presidential election.

4. Each petition, whether for initiating or referring an ordinance or resolutions, shall contain or have attached thereto throughout their circulation the full text of the ordinance or resolution proposed or referred. In addition, each petition shall list the names of the three electors who shall constitute the "committee for the petitioners" who shall represent and act for the petitioners.

Each petition shall also contain an affidavit signed by the circulator of the petition affirming that the signers thereto are believed by him to be qualified electors of the City of Bottineau.

5. Referendum petitions for ordinances must be filed with the City Auditor within thirty (30) days after the second reading of the ordinance referred. Referendum petitions for resolutions must be filed with the City Auditor within thirty (30) days after the passage of the resolution referred.

6. The City Auditor shall pass upon the sufficiency of each petition and shall have twenty (20) days after the petition is filed to certify as to its sufficiency. A petition shall be deemed sufficient if the City Auditor has not yet certified to the contrary in said twenty (20) day period. If the City Auditor finds the petition insufficient, he/she shall notify the "committee of the petitioners," specifying the insufficiencies, and allow seven days for correction or amendment, and, in the case of a petition for initiating an ordinance only, for additional signatures within said seven (7) day period.

7. Upon the filing of a referendum petition, the ordinance or resolution referred, except emergency ordinances or resolutions, as hereafter defined, shall be suspended. Such suspension shall terminate:

- A. If the petitions are deemed to be insufficient and not corrected or amended as above provided; or
- B. The petitions are withdrawn by the "committee for the petitioners," as provided in subsection 10 of this article; or
- C. The governing body of the city repeals the ordinance or resolutions; or
- D. After thirty (30) days have elapsed after the city election on the referral.

An emergency ordinance or resolution is an ordinance or resolution thus designated by the governing body and passed by three-fourths (3/4) vote of such body.

8. Upon the final determination of the sufficiency of the petitions for initiating an ordinance or resolution, the governing body shall have sixty (60) days in which to adopt a proposed ordinance or resolution. If the council fails to adopt a proposed ordinance or resolution, without any change in the substance from that proposed, within the said sixty (60) day period, the governing body shall submit the same to the voters of the city no later than the next regular general election after the final determination of the sufficiency of the petition.

Copies of the proposed ordinance or resolution shall be available at the office of the City Auditor at least ten (10) days prior to the election. The ballot shall fairly state a summary of the proposed ordinances' or resolutions' provisions and copies of the ordinance or resolution shall be available at the polling places.

9. Upon final determination of the sufficiency of the petition of referendum, the city governing body shall cause an election on the referral to be held no later than the next regular general election. The ballot shall fairly state a summary of the ordinance or resolution referred. Copies of this ordinance or resolution shall be available at the polls as well as from the City Auditor for at least ten (10) days prior to the election.

10. An initiative or referred referendum petition may be withdrawn at any time prior to the scheduling of the election by the governing body upon the filing of a request for withdrawal signed by all members of the "committee for the petitioners."

11. If the majority of electors voting on an initiated ordinance or resolution vote in its favor, it shall be considered adopted upon certification of election results and shall thenceforth stand the same as if adopted by the city's governing body. If a majority of electors voting on a referred ordinance or resolution vote against it, such ordinance or resolution shall be considered repealed upon certification of the election results.

12. Any ordinance or resolution adopted pursuant to initiative as by this article provided may not be referred except at a regular city election taking place at least two (2) years after the election at which such initiative ordinance or resolution was adopted. A governing body may not repeal or make any material amendment to the initiated ordinance or resolution or to an ordinance or resolution referred and upheld by a vote of the people except by vote off three-fourths (3/4) of the members therefore for ten (10) years after the date of election adopting such ordinance or resolution; thereafter, such an ordinance or resolution may be repealed or amended the same as any other ordinance or resolution.

13. An ordinance or resolution referred and repealed by vote of the electors as herein provide shall not be reenacted by the governing body before a period of at least two (2) years from the date of the referral election.

14. This article shall be self-executing and all of its provisions treated as mandatory. Ordinances or resolutions may be enacted to facilitate its operation but no ordinances or resolutions shall be enacted to hamper, restrict or impair the exercise of the rights herein reserved to the people.

1.1706 Separability Clause

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

1.1707 Plenary and Implied Powers of the Governing Body

The governing body shall have plenary power to enact and make all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express and implied powers granted in this charter to the end that a complete, harmonious and effective municipal government may be initiated, installed, operated and maintained in the city, and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the city and its inhabitants.

1.1708 Succession in Government

1. Rights of officers and employees preserved:

Nothing in this charter, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the city or of any office, department or agency existing at the time when this charter shall take effect, or any provision of law in force at the time when this charter shall take effect and not inconsistent with the provisions of this charter, in relation to the personnel, appointment,

removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city or any office, department or agency.

2. Continuance of present officers:

All persons holding executive and administrative office at the time this charter takes effect shall continue in office and shall continue the performance of their duties until provisions shall have been made by the governing board for the performance of such duties in some other manner or the discontinuance of such office.

3. Continuance of present offices, departments, or agencies

A. Any office, department, or agency, heretofore existing, shall continue to exercise powers and duties the same as were heretofore exercised and shall have the power to continue any business proceedings or other matters within the scope of its regular powers and duties until such office, department or agency shall be changed or abolished by the governing body.

B. The powers conferred and the duties imposed upon any office, department or agency of the city by the laws of this state shall, if such office, department or agency be abolished by this charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the governing body.

4. Continuance of appointive boards, authorities, and commissions:

All appointive boards, authorities and commissions, heretofore existing shall continue and shall exercise such powers and duties as were granted them until such boards, authorities, and commissions shall be changed or abolished by the governing body.

5. Continuance of contracts:

All contracts entered into by the city, or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect.

6. Pending actions and proceedings:

The adoption of this charter shall not abate or otherwise affect any action or proceeding civil or criminal, pending when it takes full effect, brought by or against the city or any office, department, agency or officer thereof.

7. Ordinances to remain in force:

All ordinances, resolutions and regulations of the city in force at the time of this charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in force until the same shall be duly amended or repealed.

8. Inauguration of government under this charter:

If a majority of the qualified electors of the city voting on the question, vote to ratify this charter, the provisions of this charter shall go into effect upon the filing of the charter by the governing body with the Secretary of State, the Clerk of District Court for Bottineau County and the office of the City Auditor, within ninety (90) days.

1.1709 Construction

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this charter.

1.1710 Method of Amendment and Repeal

1. This charter may be amended or repealed as provided by Section 40-05.1-07 of the North Dakota Century Code and acts amendatory thereto.

2. Home Rule charter for City of Bottineau was submitted by the Home Rule Charter Commission to the City Council of Bottineau, March 11, 1992. It was published in the official newspaper March 17, 1992. charter was adopted at a Special City election on May 19, 1992.