INTRODUCTION

State laws in North Dakota impact many provisions in the ordinance codes of North Dakota municipalities. This publication is intended to assist municipal attorneys in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this publication is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinance codes of North Dakota municipal codes.

This publication is current through legislation effective through January 1, 2020, from the 66th General Assembly.

Not all provisions of this publication will apply to your Code, nor does this publication purport to include all state laws that may somehow affect the language of your Code.

The provisions of this publication are intended to assist municipal attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this publication to provide legal advice. An attorney admitted to practice in North Dakota must be consulted as to the applicability of a given statute or case to a particular situation.

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GENERAL PROVISIONS

1. Home rule units. Chartered (home rule) municipalities may supersede certain state statutes under certain circumstances. See N.D.C.C. § 40-05.1-06.

2. Penalty for ordinance violations. Subject to certain exceptions, the maximum penalty that is authorized for a violation of an ordinance is a fine not exceeding $1,500.00 and imprisonment not exceeding 30 days. See N.D.C.C. § 40-05-06.

ADMINISTRATION

1. Public meetings. Closed sessions of meetings are allowed under certain circumstances. See N.D.C.C. § 44-04-19.1 et seq.

ANIMALS


BUILDINGS AND BUILDING REGULATIONS

1. Building code. The state building code is mandatory. See N.D.C.C. § 54-21.3-01 et seq.

2. State plumbing code. The state plumbing code constitutes minimum standards. See N.D.C.C. § 43-18-09 et seq.
3. **State electrical code.** The state electrical code constitutes minimum requirements. See N.D.C.C. § 43-09-21.

**BUSINESSES AND PROFESSIONS**

1. **Minimum wage.** A political subdivision may not enact, maintain, or enforce by charter, ordinance, purchase agreement, contract, regulation, rule, or resolution a living wage mandate in an amount greater than the applicable minimum wage rate of the state. See N.D.C.C. § 34-06-23.

2. **Private investigative or security services.** Local licensing of private investigative or security services is prohibited. See N.D.C.C. § 43-30-05.

**ENVIRONMENT AND AGRICULTURE**

1. **Pesticides.** Subject to certain exceptions, no municipality may adopt or continue in effect ordinance or charter provisions regarding the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of pesticides. See N.D.C.C. § 4.1-33-04.

**FIRE PREVENTION AND PROTECTION**

1. **Cigarette fire safety standards.** The provisions of N.D.C.C. ch. 18-13 preempt local ordinances on the same subject. See N.D.C.C. § 18-13-10.

**HEALTH**

1. **Smoking.** Local ordinances prohibiting smoking must be as stringent as statute. See N.D.C.C. § 23-12-10.2.

**NUISANCES**

1. **Agricultural operations.** Certain agricultural operations are not a nuisance. See N.D.C.C. § 42-04-01 et seq.

2. **Sport shooting ranges.** Certain sport shooting ranges cannot be deemed a nuisance. See N.D.C.C. § 42-01-01.1.

**OFFENSES AND MISCELLANEOUS PROVISIONS**

1. **Firearms.** Municipalities may not impose restrictions on the purchase, sale, ownership, transfer of ownership, registration, or licensure of firearms and ammunition that are more restrictive than state law. See N.D.C.C. § 62.1-01-03.

2. **Obscenity.** Subject to certain exceptions, local obscenity ordinances are void. See N.D.C.C. § 12.1-27.1-12.

3. **Public intoxication.** Municipalities may not adopt or enforce ordinances punishing public intoxication. See N.D.C.C. § 5-01-05.2.

4. **Seeds.** Subject to certain exceptions, a city may not impose any requirements or restrictions pertaining to the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of seed. See N.D.C.C. § 40-05-23.

5. **Medical marijuana legalized.** Medical marijuana is legal. See N.D.C.C. § 19-24.1-01 et seq.

6. **Possession of marijuana.** Subject to certain restrictions, a city may prohibit by ordinance any person, except a person operating a motor vehicle, from possessing not more than one ounce of marijuana. See N.D.C.C. § 40-05-02(29).

**SOLID WASTE**

1. **Local ordinances.** Local solid waste management ordinances must be equal to or more stringent than N.D.C.C. ch. 23.1 and rules adopted pursuant thereto. See N.D.C.C. § 23.1-08-06.
2. Auxiliary containers (plastic bags, etc.). Subject to certain exceptions, a political subdivision may not adopt or enforce an ordinance that regulates the use or disposition of an auxiliary container; prohibits or restricts an auxiliary container; or imposes a fee, charge, or tax on an auxiliary container. N.D.C.C. § 23-29-07.12. See also N.D.C.C. § 23.1-08-06.1.

TAXATION

1. City lodging tax. The scope of the city lodging tax has been expanded. See N.D.C.C. § 40-57.3-01.

TRAFFIC AND VEHICLES

1. Golf carts. Subject to certain restrictions, municipalities may allow the operation of golf carts on municipal streets. See N.D.C.C. § 40-05-22.

2. Parking meters. On-street parking meters are prohibited. See N.D.C.C. § 39-01-09.

3. Parking privileges of mobility-impaired persons. Subject to certain exceptions, any mobility-impaired person, who displays prominently upon an automobile parked by that person, or under that person's direction and for that person's use, the distinguishing certificate specified by law or a license plate issued under N.D.C.C. § 39-04-10.2, is entitled to courtesy in the parking of the automobile. See N.D.C.C. § 39-01-15.

4. Speed limits. Local alteration of speed limits is restricted. See N.D.C.C. § 39-09-03.