

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 the 2017 Regular Session of the 65th Legislative Assembly and results of the November 6, 2018, election.

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

1. *Service animals.* Service animals cannot be prohibited in public places. See N.D.C.C. §§ 25-13-02, 25-13-02.1, and 25-13-04.

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. In addition, the dollar value of the “inspection threshold” has been raised. See N.D.C.C. § 43-09-05.

BUSINESSES AND PROFESSIONS

1. *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.

SOLID WASTE

1. *Local ordinances.* Local solid waste management ordinances must be equal to or more stringent than N.D.C.C. ch. 23-29 and rules adopted pursuant thereto. See N.D.C.C. § 23-29-05.

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 license

plates 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.