

# MUNICIPAL GOVERNMENT

## CHAPTER 349

### HOUSE BILL NO. 1476

(Representatives Pietsch, Belter)  
(Senator G. Lee)

### GOLF CARTS ON STREETS

AN ACT to create and enact a new section to chapter 40-05 of the North Dakota Century Code, relating to golf carts on city streets.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 40-05 of the North Dakota Century Code is created and enacted as follows:

**Golf carts on city streets.** The governing body of a city may allow by an ordinance the operation of golf carts on the city streets. The ordinance may not allow a golf cart on federal, state, or county highways in the city, except for the perpendicular crossing of these highways. The ordinance may not allow the operation of a golf cart on city streets except for daytime travel between the owner's place of residence and a golf course. Golf carts that are allowed to operate on the city streets as the result of an ordinance are exempt from the title, registration, and equipment provisions of title 39.

Approved March 23, 2007

Filed March 23, 2007

**CHAPTER 350****SENATE BILL NO. 2236**

(Senator Dever)  
(Representative Potter)

**MUNICIPAL ELECTIONS**

AN ACT to amend and reenact sections 40-09-03 and 40-21-07 of the North Dakota Century Code, relating to municipal elections.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 40-09-03 of the North Dakota Century Code is amended and reenacted as follows:

**40-09-03. Regulations governing election of commissioners.** The members of the board of city commissioners shall be elected at large and not by wards. Each voter may vote for one of the candidates for the office of president of the board of city commissioners and for as many candidates for the office of city commissioner as there are commissioners to be elected. Candidates for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both in the same election.

**SECTION 2. AMENDMENT.** Section 40-21-07 of the North Dakota Century Code is amended and reenacted as follows:

**40-21-07. Petition for nomination of elective official in cities - Signatures required - Withdrawal of petition - Contents.** A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least sixty days and before four p.m. on the sixtieth day before the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. A candidate shall also file a statement of interests as required by section 16.1-09-02. If multiple candidates were elected to the office at the preceding city election at which the office was voted upon, the number of signatures must equal at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. Qualified electors who sign a petition must reside within the ward or precinct in and for which that officer is to be elected, if the election is by wards, or within the corporate limits of the city, if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the qualified electors at large residing within the city. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the sixtieth day prior to the holding of the election. However, no more than three hundred signatures may be required and the signatures may be on separate sheets of paper. Petitions must meet the specifications of nominating petitions pursuant to section 16.1-11-16. If a city election is not combined with a state or county election according to section 40-21-02, a candidate may be nominated by filing the required petition with the city auditor at least ~~thirty-three~~ sixty days and before four p.m. on the ~~thirty-third~~ sixtieth day before the holding of the election. A candidate may withdraw the candidate's nominating petition at any time before the applicable deadlines for filing nominating petitions provided for in this section. Nominating petitions required by this section may not be circulated or signed more than ninety days before the date when nominating petitions must be filed pursuant to this section. Any signatures to a

nominating petition obtained more than ninety days before that date may not be counted. Candidates for city council may run for either the office of mayor or council member but not both in the same election. Candidates for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both in the same election.

Approved April 13, 2007  
Filed April 16, 2007

## CHAPTER 351

### HOUSE BILL NO. 1321

(Representatives Wrangham, Damschen, S. Meyer)  
(Senators Heitkamp, O'Connell, Triplett)

## CITY EXTRATERRITORIAL ZONING

AN ACT to amend and reenact sections 40-47-01.1, 40-47-06, and 40-48-03 of the North Dakota Century Code, relating to extraterritorial zoning jurisdiction of cities; to provide for a legislative council study; to provide for application; and to provide an expiration date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 40-47-01.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **40-47-01.1. Extraterritorial zoning - Mediation - Determination by administrative law judge.**

1. A city may, by ordinance, extend the application of a city's zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within the following distance of the corporate limits of the city:
  - a. ~~One~~ One-half mile [1.61 kilometers] ~~.80 kilometer~~ if the city has a population of ~~less~~ fewer than five thousand.
  - b. ~~Two miles [3.22 kilometers]~~ One mile [1.61 kilometers] if the city has a population of five thousand or more, but ~~less~~ fewer than twenty-five thousand.
  - c. ~~Four miles [6.44 kilometers]~~ Two miles [3.22 kilometers] if the city has a population of twenty-five thousand or more.
2. Subject to subsections 5 and 6, a city, by ordinance, may extend the application of the city's zoning regulations to two times the distance allowed under subdivisions a, b, and c of subsection 1 if the extension is approved by at least five of six members of a committee established to review the proposed extension. The committee must consist of three members appointed by the governing body of the city and three members appointed, jointly, by the governing bodies of any political subdivision that is exercising zoning authority within the territory to be extraterritorially zoned.
3. If a quarter quarter section line divides a platted lot and the majority of that platted lot lies within the quarter quarter section, a city may apply its extraterritorial zoning authority to the remainder of that platted lot. If the majority of the platted lot lies outside the quarter quarter section, the city may not apply its extraterritorial zoning authority to any of that platted lot.

- ~~3-~~ 4. A city exercising its extraterritorial zoning authority shall hold a zoning transition meeting if the territory to be extraterritorially zoned is currently zoned. The city's zoning or planning commission shall provide at least fourteen days' notice of the meeting to the zoning board or boards of all political subdivisions losing their partial zoning authority. The purpose of the zoning transition meeting is to review existing zoning rules, regulations, and restrictions currently in place in the territory to be extraterritorially zoned and to plan for an orderly transition. The zoning transition meeting must take place before the city's adoption of an ordinance exercising extraterritorial zoning.
- ~~4-~~ 5. If two or more cities have boundaries at a distance where there is an overlap of extraterritorial zoning authority under this section, the governing bodies of the cities may enter into an agreement regarding the extraterritorial zoning authority of each city. The agreement must be for a specific term and is binding upon the cities unless the governing bodies of the cities agree to amend or rescind the agreement or unless determined otherwise by an administrative law judge in accordance with this chapter. If a dispute arises concerning the extraterritorial zoning authority of a city and the governing bodies of the cities involved fail to resolve the dispute, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor, one member of the governing body of each city, and one member of the planning commission of each city who resides outside the corporate city limits. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile.
- ~~5-~~ 6. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the office of administrative hearings to appoint an administrative law judge to determine the extraterritorial zoning authority of the cities in the disputed area. A hearing may not be held until after at least two weeks' written notice has been given to the governing bodies of the cities involved in the dispute. At the hearing, the governor's appointee who mediated the meetings under subsection 4 shall provide information to the administrative law judge on the dispute between the cities involved and any proposed resolutions or recommendations made by a majority of the committee members. Any resident of, or person owning property in, a city involved in the dispute or the unincorporated territory that is the subject of the proposed extraterritorial zoning, a representative of such a resident or property owner, and any representative of a city involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge is binding upon all the cities involved in the dispute and remains effective until the governing bodies of the cities agree to a change in the zoning authority of the cities. The governing body of a city may request a review of a decision of an administrative law judge due to changed circumstances at any time ten years after the decision has become final. An administrative law judge shall consider the following factors in making a decision under this subsection:

- a. The proportional extraterritorial zoning authority of the cities involved in the dispute;
  - b. The proximity of the land in dispute to the corporate limits of each city involved;
  - c. The proximity of the land in dispute to developed property in the cities involved;
  - d. Whether any of the cities has exercised extraterritorial zoning authority over the disputed land;
  - e. Whether natural boundaries such as rivers, lakes, highways, or other physical characteristics affecting the land are present;
  - f. The growth pattern of the cities involved in the dispute; and
  - g. Any other factor determined to be relevant by the administrative law judge.
- 6- 7. For purposes of this section, the population of a city must be determined by the last official regular or special federal census. If a city has incorporated after a census, the population of the city must be determined by a census taken in accordance with chapter 40-22.
- 7- 8. When a portion of the city is attached to the bulk of the city by a strip of land less than one hundred feet [30.48 meters] wide, that portion and strip of land must be disregarded when determining the extraterritorial zoning limits of the city. This subsection does not affect the ability of a city to zone land within its city limits.
- 8- 9. For the purposes of this section, a quarter quarter section shall be determined in the manner provided by 2 Stat. 313 [43 U.S.C. 752]. When appropriate, the phrase "quarter quarter section" refers to the equivalent government lot.

**SECTION 2. AMENDMENT.** Section 40-47-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-47-06. Zoning commission - Appointment - Duties - Preliminary and final report.** The governing body of a city desiring to avail itself of the powers conferred by this chapter shall appoint a commission, to be known as the zoning commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. ~~In addition to the members appointed by the city~~ If the city exercises extraterritorial zoning authority under section ~~40-47-01.1~~, the zoning commission ~~shall~~ must include at least one ~~person~~ individual residing outside of the corporate limits of a city ~~having if the city has a population of less fewer than five thousand, two persons~~ individuals residing outside the corporate limits of a ~~the city having if the city has a population of five thousand or more, but less fewer than twenty-five thousand, or three persons~~ individuals residing outside the corporate limits of a ~~the city having if the city has a population of twenty-five thousand or more if zoning authority is exercised pursuant to section 40-47-01.1. Such persons shall.~~ Those individuals must be appointed by the board or boards of county commissioners of the county or counties within which ~~such the~~ zoning authority is to be exercised and ~~shall~~ must reside within the territorial limits of the zoning regulation authority exercised by the city, if any such ~~persons are~~ individual is

available and will serve on the zoning commission. Of the members of the commission appointed by a board or boards of county commissioners pursuant to this section, the first member appointed shall hold office for five years, the second member appointed shall hold office for three years, and the third member appointed shall hold office for one year. Thereafter, the members shall be appointed for terms of five years. ~~Such~~ The commission shall make a preliminary report and hold public hearings thereon before submitting its final report. The governing body ~~shall~~ may not hold its public hearings or take action until it has received the final report of the zoning commission. If a city has a planning commission, it may be appointed as the zoning commission.

**SECTION 3. AMENDMENT.** Section 40-48-03 of the North Dakota Century Code is amended and reenacted as follows:

**40-48-03. Planning commission - Creation - Members - Ex officio members.** The governing body of any city may create, by ordinance, a planning commission to consist of not more than ten members to be appointed by the executive officer of the city with the approval of its governing body. ~~In addition to the members appointed by the city~~ If the city exercises extraterritorial zoning authority under section 40-47-01.1, the planning commission shall must include at least one person individual residing outside of the corporate limits of a the city having if the city has a population of less fewer than five thousand, two persons individuals residing outside the corporate limits of a if the city having has a population of five thousand or more, but less fewer than twenty-five thousand, or three persons individuals residing outside the corporate limits of a the city having if the city has a population of twenty-five thousand or more if zoning authority is exercised pursuant to section 40-47-01.1. Such persons shall. Those individuals must be appointed by the board or boards of county commissioners of the county or counties within which ~~such~~ the subdivision authority is to be exercised and ~~shall~~ must reside within the territorial limits of the subdivision regulation authority exercised by the city, if any such ~~persons are~~ individual is available and will serve on the planning commission. Of the members of the commission appointed by a board or boards of county commissioners pursuant to this section, the first member appointed shall hold office for five years, the second member appointed shall hold office for three years, and the third member appointed shall hold office for one year. Thereafter, the members shall be appointed for terms of five years. The executive officer, the engineer, and the attorney of the city ~~shall be~~ are ex officio members of the commission.

**SECTION 4. LEGISLATIVE COUNCIL STUDY - EXTRATERRITORIAL ZONING AUTHORITY.** The legislative council shall consider studying, during the 2007-08 interim, the extraterritorial zoning authority of cities and the impact of that authority on other political subdivisions. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

**SECTION 5. APPLICATION.** Any extraterritorial zoning regulation in effect before May 1, 2007, which extends beyond the extraterritorial zoning authority provided by this Act is not affected by the reduction in the extraterritorial zoning limits in section 1 of this Act.

**SECTION 6. EXPIRATION DATE.** Sections 1 through 3 of this Act are effective through July 31, 2009, and after that date are ineffective.

Approved May 2, 2007  
Filed May 3, 2007

**CHAPTER 352****SENATE BILL NO. 2349**

(Senators Tollefson, Andrist, Krebsbach)

(Representatives Bellew, Wrangham)

**MEDAL OF HONOR MONUMENT**

AN ACT to provide for ownership and maintenance for the medal of honor monument; and to provide an appropriation for the medal of honor monument.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. Medal of honor monument.** Upon completion of the medal of honor monument in Roosevelt park in Minot, ownership and responsibility for the monument's maintenance belongs to the Minot park board or its successor.

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$30,000, or so much of the sum as may be necessary, to the state historical society for the purpose of constructing a monument in Roosevelt park in Minot to honor recipients of the medal of honor, for the biennium beginning July 1, 2007, and ending June 30, 2009.

Approved May 4, 2007  
Filed May 4, 2007



**CHAPTER 353****HOUSE BILL NO. 1225**

(Representatives Keiser, N. Johnson)  
(Senator Grindberg)

**RENAISSANCE ZONE SIZE AND BOUNDARIES**

AN ACT to amend and reenact subsection 1 of section 40-63-03 of the North Dakota Century Code, relating to a renaissance zone size and boundary.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 1 of section 40-63-03 of the North Dakota Century Code is amended and reenacted as follows:

1. A city may apply to the department of commerce division of community services to designate a portion of that city as a renaissance zone if the following criteria are met:
  - a. The geographic area proposed for the renaissance zone is located wholly within the boundaries of the city submitting the application.
  - b. The application includes a development plan.
  - c. The proposed renaissance zone is not more than ~~twenty~~ twenty-three square blocks, except in a city with a population of greater than five thousand the renaissance zone may exceed ~~twenty~~ twenty-three square blocks at the rate of one additional block for each additional five thousand population to a maximum size of ~~thirty-five~~ thirty-eight blocks. Population is based upon the most recent federal decennial census.
  - d. ~~The~~ Except as provided under subdivision g, the proposed renaissance zone has a continuous boundary and all blocks are contiguous.
  - e. The proposed land usage includes both commercial and residential property.
  - f. The application includes the proposed duration of renaissance zone status, not to exceed fifteen years.
  - g. The proposed renaissance zone may have a single exception to the continuous boundary and contiguous block requirements under subdivision d if the area of the excepted noncontiguous blocks does not exceed three square blocks and if the shortest distance between the noncontinuous boundaries of the two portions of the zone does not exceed one-half mile [.80 kilometer].

Approved March 23, 2007  
Filed March 23, 2007