CHAPTER 2

ORDINANCES

Article 1
Procedure

2.0101 Enacting Clause for Ordinances

The enacting clause for every ordinance adopted by the City of Thompson shall be "Be it ordained by the City Council of the City of Thompson". Such caption, however, may be omitted where the ordinances are published in book form, or are revised and digested.

2.0102 Yea and Nay Vote on Passage - When Required

The yea and nay shall be taken and required entered in the journal of the governing body's proceedings upon the passage of all ordinances and upon all propositions creating any liability against the city, a providing for the expenditure or appropriation of money, and in all other cases at the request of any member. The member of the governing body who passes his 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.

2.0103 Reconsideration or Rescinding Vote

No vote of the governing body shall be reconsidered or rescinded at a special meeting unless, at such special meeting there is present as large a number of members as was present when such vote was taken.

2.0104 Procedure in Passing Ordinances

All ordinances shall be read twice, and the second reading shall not be had in less than one week after the first reading; and after such first reading, before their final passage, such ordinances may be amended, and shall then be put upon their second reading and final passage; provided such ordinance is not enacted until it is approved by the Mayor or passed over the Mayor's veto, the ordinance shall be deposited in the office of the city auditor for approval by the Mayor. If he approves the ordinance, he shall sign it. If he disapproves, he shall return the ordinance with his written objections to the next regular or special meeting of the Council occurring not less than five days after the passage thereof. If he fails to return the ordinance with his objections within said time, he shall be deemed to have approved the same. He may veto an entire ordinance or items thereof. An ordinance vetoed in whole or in part may be reconsidered by the Council and passed over the veto by a two-thirds vote.

2.0105 Publication

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.

2.0106 Effective Date

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.

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 General Penalties for Violation

In case no other specific penalty is prescribed for the violation of any section or provision of any ordinance of the City, any person found guilty of violating the same shall be punished by a fine or not more than Five Hundred Dollars ($500.00) or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, association or corporation shall violate any section or provision of any article shall constitute a separate offense.

2.0109 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 executive officer of a municipality may appoint, by and with the advice and consent of the governing body of the municipality, one or more competent persons to prepare and submit to the governing body for its adoption or rejection, an ordinance for the revision or amendment of existing ordinances or for the enactment of new and additional ordinances for such municipality. The attorney for the municipality, if it has an attorney, shall be appointed as one of the persons to prepare and submit such ordinance. The compensation of the revisor or revisors, including that of the attorney, shall be determined by the governing body and shall be paid out of the municipal 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 governing body of the municipality, and shall be valid and effective without publication in a newspaper or posting.

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 of any municipality shall be brought in the corporate name of the municipality 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 causes of action 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 of Ordinance - When Warrant of Arrest to Issue

The provision 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 that 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 provision 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 for violation of a municipal ordinance may, after hearing, be committed upon order of the court to jail or other place provided by the municipality 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 his indigence. An order of commitment under this section 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.

2.0113 Costs 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 on Conviction

In all trials for offenses under the ordinances of the City, if the defendant is found guilty, the municipal judge shall render judgment accordingly. The defendant shall stand committed until such judgment is complied with and if the defendant does not pay the fine and costs or make any required partial payment, the court, upon motion of the city attorney or on its own motion, may issue an order to show cause why the defendant should not be imprisoned for nonpayment. Unless the defendant shows that his default is excusable, the court may sentence him to a period not to exceed thirty (30) days of imprisonment for failure to pay each such fine and costs.

2.0115 Alternatives to Sentencing

Alternatives to sentencing as set forth in Section 12.1-32-02 of the North Dakota Century Code as amended are adopted as though set forth in full herein.

2.0116 Hard Labor Authorized

If, in the opinion of the Court, a person to be sentenced is capable of performing manual labor, such Court may sentence such person to confinement at hard labor.

2.0117 Refusal to Work

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

2.0118 Fines and Forfeitures for Violation of Ordinances Paid into Municipal Treasury

All fines, penalties and forfeitures collected for offenses against the ordinances of the City of Thompson shall be paid into its treasury. Under no circumstances shall the municipal judge remit fines or penalties or payments of costs.

2.0119 Deferring or Suspending Sentence

The municipal judge may, in his discretion, upon the conviction of any person of any offense against any of the ordinances of the City of Thompson, then and there impose a sentence of imprisonment as may be regulated by such ordinances, or defer imposition of sentence or suspended the sentence imposed on such person for a period of not to exceed ninety (90) days from the date of such conviction; and may during such period, allow the defendant to go upon his own recognizance, or upon such bail as may be regulated by law or the ordinances of said City, or may suspend or defer such sentence upon such terms and conditions as the Judge may prescribed; and may, in his discretion, at or before the expiration of such period, have the defendant brought before him and commit such defendant or cause such sentence of imprisonment to be then and there imposed and executed in like manner, so far as applicable, as may be provided by law or the ordinance in cases where the commitment and imposition of the sentence of imprisonment is not deferred or suspended and may then and there forthwith commit such defendant and require that such sentence of imprisonment be executed and carried out.

2.0120 Amendment Procedure

After any ordinance has become effective, the Auditor shall determine the appropriate chapter and ordinance number for said ordinance. The page or pages upon which the new ordinance is to be placed shall be removed from the master book of ordinances and shall be retained in an appropriate 3-ring binder in the same manner as the city records are retained. The removed page or pages shall then be retyped in their amended form and placed in the master book of ordinances. A notation showing the date of amendment of a particular ordinance shall be included immediately following the ordinance. The date that the page or pages have been replaced in the master book of ordinances shall be indicated on the bottom right hand corner of the page. To insure that

amendments do not require retyping of an entire chapter, additional pages may be inserted with a portion of an ordinance or ordinances on them and they shall be numbered 1a, 2a, or any other such designation that would indicate that said page is a continuation of a preceding page.