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CHAPTER NINE

TRAFFIC

ARTICLE 1 - Definitions

9.0101 Definitions

Words and phrases used in this chapter shall have the meaning and be defined as provided in the North Dakota Century Code in Title 39, and NDCC including Section 39-01-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

ARTICLE 2 - Motorized Scooters

9.0201 Purpose of Ordinance and Authority

1. City Council. The City Council of the City of Harvey, North Dakota is aware of the need for an ordinance regarding the use of motorized scooters in the City of Harvey, Wells County, North Dakota, because pursuant to Attorney General Opinion 2001-F-07, a motorized scooter is a vehicle" pursuant to NDCC 39-01-01(89), and pursuant to City of Harvey Ordinances, and therefore, as a vehicle, it is unlawful for anyone to operate or drive a motor vehicle upon the streets of the City of Harvey unless the license is attached thereto as required by the laws of the State of North Dakota, and there is not currently a provision under the laws of the State of North Dakota, nor the ordinances of the City of Harvey for the licensing of Motorized Scooters.
2. Citizens. The citizens of the City of Harvey have requested to be able to operate motorized scooters in the City of Harvey, and therefore, the City Council for the City of Harvey shall enact and pass an Ordinance regulating and authorizing motorized scooters upon the streets of the City of Harvey.
3. Home Rule Charter. The Home Rule Charter of the City of Harvey, allows for the City Council to fix fees, number, terms and conditions, durations and manner of issuing and revoking licenses in the exercise of its governmental police powers, to provide for public health, safety, morals, and welfare, and penalties for a violation, to lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation and regulation thereof, and to define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof, to impose registration fees on motor vehicles, or sales and use taxes in addition to any other taxes imposed by law, and these powers of a Home Rule Charter City enable the City of Harvey to enact and pass an ordinance to permit the use and operation of motorized scooters within the City of Harvey, but only on Harvey City streets. See Attorney General Letter Opinion 2003-L-59 (providing that Home Rule cities may supersede state law in those areas listed in NDCC 40-05.1-06 as long

as any of those power is delineated in the City's Home Rule Charter and implemented through ordinances).

9.0202 City Registration of Motorized Scooters Required.

1. City Registration Required No person shall use or operate a motorized electric scooter upon any street, alley, or public highway in the City of Harvey without first having secured and attached a proper registration tag provided by the City of Harvey.

9.0203 Registration Application - Annually

1. Registration Application: Annually, on May 1 of each year, each person shall pick up an application from the City Auditor, which shall require the person's name, address, and phone number, and an application of \$5.00 dollars to be paid to the City of Harvey Police Department upon the granting of a registration, and each application shall be signed by the person that will be operating the motorized scooter.

The person's parent or legal guardian, shall be required to put their name upon the application and said parent or legal guardian shall be required to sign the application (for those operators under 18 years of age).

2. Granting of Registration Tag: The City Auditor shall bring said application to the City of Harvey Police Department, and said motorized scooter shall be inspected to make sure that it has proper equipment, including a headlight, a brake light, turning signals, working brakes, and a working horn or bell. If said motorized scooter passes said inspection, then, the Peace Officer shall explain the basic rules of the road, and conditions of the Registration prior to the granting the Registration Tag. Once a Registration Tag has been granted, a proper Registration tag shall be attached to the motorized scooter indicating the expiration date of the Annual Registration Tag. If there is more than one person operating said motorized scooter, then, the Registration Tag shall indicate multiple users.

3. General Requirements and Regulations of Use: Every unlicensed motorized scooter operator shall be subject to the additional following conditions:

- a. The Applicant shall be required to take and pass a safety course, and upon passing said safety course, a safety card shall be issued to said operator. The Operator will be required to carry said safety course card with them at all times that they are operating said motorized scooter.

- b. The operator shall only be allowed to operate the motorized scooter from dawn until dusk, except if it is operated for work purposes.

- c. The operator shall be required to wear a helmet at all times that they are operating said motorized scooter.

- d. All operators of the motorized scooter must observe all traffic signs, and stop at all stop signs, and generally, obey all of the rules of the road, including using turn signals for all turns, and only riding on the right side of the road along with other motor vehicle traffic.
- e. No person may operate or use a motorized scooter upon a sidewalk or sidewalk area at any time, but parking upon a sidewalk is permitted.
- f. No person shall operate or use a motorized scooter upon any street in the City of Harvey abreast of more than one other person riding or propelling a motorized scooter.
- g. Only one person shall be allowed to be upon and operate or use a motorized scooter, such that the operator shall not have a passenger.
- h. Any violations of these conditions subject the operator to penalties provided herein, and the parents and/or legal guardian shall be subject to the penalties (for those operators under 18 years of age).

9.0204 Penalties

- 1. Penalty: Any person violating any provisions of this ordinance shall be guilty of a traffic offense, a noncriminal offense, and a fee of twenty dollars (\$20.00) may be issued for each violation. The Penalty may include the confiscation of the Scooter by the Harvey Police Department, as determined by the Municipal Court Judge. The parent and / or legal guardian shall be subject to the penalty herein.

9.0205 Repeal

- 1. All Ordinances or parts of ordinances or resolutions in conflict herewith are repealed.
- 2. If any state law and/or Attorney General's opinion is later passed that makes this ordinance illegal this ordinance shall be repealed and null and void.

ARTICLE 3 - Traffic Control Devices

9.0301 Railroad Underpass

- 1. When it is unlawful to drive under Railroad Underpass.

It shall be unlawful for any person to drive under the railroad underpass along Alder Avenue in the City of Harvey when the traffic control signs, signals and devices indicate that vehicles must "stop". The traffic control devices are designated to warn of flooding in the railroad underpass. It is unlawful for any person to have a vehicle stalled, and/or stuck or flooded in the railroad underpass when the traffic devices indicate that vehicles must "stop". It shall not be a violation if the driver and/or vehicle is an authorized emergency vehicle and/or if the

driver is directed by a police officer to drive under the railroad underpass.

2. Penalty for Unlawful Driving Under

It shall be a Class B misdemeanor for a violation of this ordinance. This means that the maximum penalties include thirty (30) days in jail, a fine of (\$1,000.00) or both.

3. Restitution

Any person convicted of a violation for unlawfully driving under the railroad underpass shall be ordered to pay restitution to the City of Harvey, and any other third parties damaged as a result of this violation. Specifically, any restitution ordered shall include all the costs for police work, fire department time, services and expenses, ambulance time, services and expenses and any wrecker time, services and expenses.

9.0302 Interference with Official Traffic Control Device or Sign

The provision of North Dakota Century Code Section 39-10-07.3 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

9.0303 State Laws regarding Traffic Control Devices

Th provisions of any applicable state laws and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance, specifically, including NDCC § 39-13-06, 39-10-04, 39-10-07.2, 39-10-07.3.

ARTICLE 4 - Regulations for Bicycles, Skateboards, Roller blades, and Rollerskates

9.0401 Effect of Regulations

1. It is a violation of this ordinance for any person to do any act forbidden or fail to perform any act required in this article. Any person who violates any of the provisions of this article may be assessed a fee not to exceed five dollars (\$5.00).
2. The parent of any child and the guardian of any ward may not authorize or knowingly permit any such child or ward to violate any of the provisions of this ordinance.
3. These regulations applicable to bicycles, Skateboards, Roller blades, and Roller skates apply whenever the equipment is operated upon any highway or upon any path set aside for the exclusive use of bicycles, skateboards, rollerblades and/or rollerskates subject to those exceptions stated herein. (Source: North Dakota Century Code Section 39-10.1-01)

9.0402 Traffic Ordinances Apply to Persons Riding Bicycles, Skateboards, Roller blades and Roller skates

Every person riding a bicycle, operating a skateboard, on roller blades or on roller skates upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this ordinance, except as to special regulations in this article and except as to those provisions of this ordinance which by their nature can have no application. (Source: North Dakota Century Code Section 39-10.1-02)

9.0403 Obedience to Traffic Control Devices

1. Any person operating a bicycle, skateboard, roller blades or roller skates, shall obey the instructions of official traffic-control devices applicable to vehicles, unless otherwise directed by a police officer.
2. Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle, skateboard, roller blades or roller skates may disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, or gets off the skateboard, or takes off the rollerblades and/or rollerskates in which event such person shall then obey the regulations applicable to pedestrians.

9.0404 Use on Sidewalks

1. The chief of police or authorized person may erect signs on any sidewalk or roadway prohibiting the use of bicycles, skateboards, roller blades and roller skates thereon by any person and when such signs are in place no person may disobey the same.
2. Whenever any person is using a bicycle, skateboard, roller blades or roller skates upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

9.0405 Use on Roadways and Special Paths

The provision of North Dakota Century Code Section 39-10.1-05 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Every person operating a bicycle, skateboard, roller blades or roller skates upon a roadway shall ride as near to the right side of the roadways as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
2. Persons using bicycles, skateboards, roller blades or roller skates, upon a roadway may not ride more than two abreast except on special paths or parts of roadways set aside for the exclusive use of bicycles, skateboards, rollerblades and/or rollerskates.
3. Whenever a usable special path has been provided adjacent to a roadway, riders shall use such path and may not use the roadway.

9.0406 Clinging to Vehicles

The provisions of North Dakota Century Code Section 39-10.4-04 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

No person operating any bicycle, coaster, skateboards, roller skates, sled and/or toy vehicle may attach the same or the person's self to any vehicle upon a roadway, except a sled being pulled by a snowmobile.

9.0407 Carrying Articles while Riding a Bicycle

The provisions of North Dakota Century Code Section 39-10.1-06 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

No person operating a bicycle may carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

9.0408 Lamps and other Equipment, including reflective gear at nighttime

The provisions of North Dakota Century Code Section 39-10.1-07 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Every bicycle when in use at nighttime must be equipped with a lamp on the front which emits a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type approved by the North Dakota Department of transportation. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
2. Every bicycle must be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
3. Every person operating skateboards, rollerblades and/or rollerskates shall have on some type of reflector and/or reflective clothing when operating at nighttime.

9.0409 Using Bicycles, Rollerblades, Skateboards and Rollerskates

The provisions of North Dakota Century Code Section 39-10.1-03 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. A person propelling a bicycle may not ride other than upon or astride a permanent and regular seat attached thereto.
2. No bicycle may be used to carry more persons at one time than the number for which it is designed and equipped.

9.0410 Parking a Bicycle

No person may park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

9.0411 Racing Prohibited

It shall be unlawful for any persons to run or engage in or cause to be run or be engaged in any bicycle, motorcycle, skateboard, rollerblades and/or rollerskates race on any street, alley, highway or public place within the City, except when officially sanctioned to do so by the chief of police.

9.0412 Point System Not Applicable

The provisions of North Dakota Century Code Section 39-10.1-08 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

Any violation of this chapter, or any moving violation as defined in Section 9.2210, or any nonmoving violation as defined in Section 9.2209 when committed on a bicycle as defined in Section 9.0101, and/or committed on a skateboard, rollerblades and/or rollerskates, is not cause for the licensing authority to access points against the driving record of the violator pursuant to North Dakota Century Code Section 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or non-criminal traffic violation is applicable to operators of bicycles, skateboards, rollerblades and/or rollerskates.

9.0413 Bicycle, skateboard, roller blades and roller skates may be Impounded by Police

Any bicycle, skateboard, roller blades or roller skates left abandoned upon the streets of the City and picked up by the city police shall be held by the police department and a \$10.00 pick up fee shall be charged. The equipment may also be impounded for 2 or more violations of this article. The equipment will not be returned until the \$10.00 fee is paid.

ARTICLE 5 - Angle Parking

9.0501 Angle Parking

The city engineer or other person authorized by the governing body may mark or sign streets upon which angle parking will be permitted (other than federal aid or state highways). Upon those streets which have been signed or marked for angle parking, no person may park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

9.0502 Angle Parking - Where

Angle parking shall also be permitted on the following streets:
Lincoln Avenue South of the Canadian Pacific Railroad, the North side of Eighth Street for one block East and West of Lincoln Avenue, the North side of Ninth Street for one block East of Lincoln Avenue and all of Ninth Street one block west of Lincoln Avenue, and the East side of Alder Avenue between Seventh and Eighth Street.

9.0503 Close to Curb

No person may stand or park a vehicle in a street other than on the roadway and parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as otherwise provided in this article.

9.0504 Method of Parking - Penalty

A violation of the provisions of this article in respect to the method of parking is punishable by a fine of not to exceed twenty-five dollars (\$25.00).

ARTICLE 6 - Stopping, Standing or Parking Prohibited in Specific Places

9.0601 Parking Prohibited - All Times

When signs are erected giving notice thereof, it shall be unlawful for any person, firm or corporation to park or leave standing either attended or unattended, any motor vehicle in or upon the streets or alleys of the City.

9.0602 Stopping, Standing or Parking Outside of Business or Residence Districts

The provisions of North Dakota Century Code Section 39-10-47 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Upon any highway outside of a business or residence district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway of not less than twelve (12) feet opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such highway.
2. Sections 9.1402, 9.1404 and 9.1405 shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

9.0603 Officers Authorized to Remove Illegally Stopped Vehicles

The provisions of North Dakota Century Code Section 39-10-48 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Whenever any police officer finds a vehicle standing upon a highway in violation of any of the provisions of Section 9.0602, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.
2. Whenever any police officer finds a vehicle unattended upon any highway, bridge or causeway, or in any tunnel where such vehicle constitute an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

3. Any police officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:
 - a. A report has been made that such vehicle has been stolen or taken without consent of its owner;
 - b. The person or persons in charge of such vehicle are unable to provide for its custody or removal; or
 - c. When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

9.0604 Stopping, Standing or Parking Prohibited in Specified Places

The provisions of North Dakota Century Code Section 39-10-49 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

No person may stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within ten (10) feet of a fire hydrant;
5. On a crosswalk;
6. Within ten (10) feet of a crosswalk at an intersection;
7. Within fifteen (15) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within fifteen (15) feet of points on the curb immediately opposite the ends of a safety zone, unless the North Dakota Department of Transportation or the City indicates a different length by signs or markings;
9. Within fifteen (15) feet of the nearest rail of a railroad crossing;
10. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted;
11. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel; or
14. At any place where official signs prohibit stopping.

No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

9.0605 Additional Parking Regulations

The provisions of North Dakota Century Code Section 39-10-50 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway must be so stopped or parked with the right-hand wheels of such vehicle parallel to and within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.
2. Except where otherwise provided by ordinance, every vehicle stopped or parked upon a one-way roadway must be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve (12) inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.
3. The City may permit angle parking on any roadway, except that angle parking is not permitted on any federal-aid or state highway without first obtaining the written authorization of the director of the North Dakota Department of Transportation.
4. The North Dakota Department of Transportation with respect to highways under its jurisdiction may place official traffic-control devices prohibiting or restricting the stopping, standing or parking of vehicles on any highway where in its opinion such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person may stop, stand or park any vehicle in violation of the restrictions indicated by such devices.

9.0606 Stopping - Parking - Certain Purposes Prohibited

No person may park a vehicle upon any roadway for the principal purpose of:

1. Displaying such vehicle for sale;
2. Washing, greasing or repairing such vehicle except repairing such vehicle necessitated by an emergency.

9.0607 Stopping - Parking - Congested - Hazardous Places

The Police Chief or other person designated by the governing body is hereby authorized to determine and designate by proper signs, places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

When official signs are erected at hazardous or congested places as authorized herein, no person may stop, stand or park a vehicle in any such designated place.

9.0608 Stopping - Parking - In Alleys

No person may park a vehicle within an alley, nor shall any person stop a commercial vehicle so as to leave available less than twelve (12) feet of the width thereof for free movement of vehicular traffic, nor shall any person stop in such a position as to block the driveway entrance to any abutting property.

9.0609 Parking Adjacent to Schools

1. The city traffic engineer or authorized person may erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.
2. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person may park a vehicle in any such designated place.

9.0610 Stopping - Parking - Over 72 Hours

It shall be unlawful for anyone to park or leave standing on any public street or highway & City Parking Lot in the City any vehicle, camper, trailer, boat, semi-tractor, or semi-trailer, for a period longer than Seventy-two (72) hours consecutively, provided this section shall not include any area where a shorter time is provided for parking.

9.0611 Parking Privileges for Mobility-Impaired - Certificate - Revocation

The provisions of North Dakota Century Code Section 39-01-15 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. 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, a distinguishing certificate or insignia for mobility-impaired persons issued by the North Dakota Department of Transportation shall be entitled to courtesy in the parking of the automobile. Provided, however, that the City may prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic during morning and afternoon rush hours, and the privileges extended to such impaired persons do not apply on streets or highways where and during such times as parking is prohibited.
2. A mobility-impaired person as used in this section includes any person who uses portable oxygen; requires personal

assistance or the use of crutches, a wheelchair, or a walker to walk two hundred feet without rest; is restricted by cardiac, pulmonary or vascular disease from walking two hundred feet without rest; has a forced expiratory volume of less than one liter for one second or an arterial oxygen tension of less than sixty millimeters to mercury on room air while at rest and is classified III or IV by standards for cardiac disease set by the American Heart Association; or has an orthopedic, neurological or other medical condition that makes it impossible for the person to walk two hundred feet without assistance or rest.

3. If a law enforcement officer finds that a mobility-impaired certificate or insignia is being improperly used, the officer may report to the director of the North Dakota Department of Transportation. Any person who is not mobility-impaired and who exercises the privileges granted a mobility-impaired person under subsection 1 shall be guilty of an infraction.
4. Whenever any public or private entity designates parking spaces for use by motor vehicles operated by mobility-impaired persons, those reserved spaces must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, the space reserved must be indicated by an official sign approved by the director of the North Dakota Department of Transportation. The City may enforce the provisions of this subsection in any parking lot or parking facility that is generally open to the public, whether publicly or privately owned.
5. A person may not stop, stand or park any vehicle in any designated parking space which is reserved for the mobility-impaired unless the vehicle displays a mobility-impaired identification certificate or insignia issued by the director of the North Dakota Department of Transportation. For a violation of this subsection, there will be a fee in the amount of one hundred dollars (\$100.00).

ARTICLE 7 - Reserved Parking Areas

9.0701 Reserved Parking Areas

No person, firm or corporation shall, when signs are erected giving notice thereof, park or leave standing, either attended or unattended, any motor vehicle on street areas which are reserved for the following temporary uses: loading and unloading, bus parking, guest parking, taxi parking, emergency parking, no parking, police or fire use.

The chief of police may establish from time to time areas for loading and unloading, bus parking, guest parking, taxi parking, emergency parking, no parking or police and fire use on such public streets in such places and in such number as the chief shall determine or as the governing body may specifically designate to be of greatest benefit and convenience to the public. These areas shall be designated by appropriate signs.

ARTICLE 8 - Time Limit Parking Zones

9.0801 Time Limit Parking Zones

When signs are erected giving notice thereof, no person, firm or corporation shall park or leave standing, either attended or unattended any motor vehicle for more than the amount of time posted.

The city engineer or authorized person may establish time parking zones from time to time in such places as they determine, or as the governing body shall specifically designate, to promote the greatest benefit and convenience to the public and the best use of the street areas.

ARTICLE 9 - Equipment of Vehicles

9.0901 Windshield - Must be Unobstructed and Equipped with Wipers - Tinted Windows

1. Every motor vehicle shall be equipped with a windshield. No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows which obstructs the driver's clear view of the highway or any intersection highway.
2. The windshield on every motor vehicle must be equipped with a device for cleaning rain, snow or other moisture from the windshield, which shall be so constructed as to be controlled or operated by the driver of the vehicle.
3. Every windshield wiper upon a motor vehicle shall be maintained in good working order.
4. A person may not operate a motor vehicle with any object or any material displayed, affixed or applied on the front windshield or on any side window where that material alters the color or reduces the light transmittance, or reduces the clear and unobstructed view through the windshield or window. This subsection does not apply to windows behind the driver or to tinted windows or windshields in compliance with the Federal Motor Vehicle Safety Standards.

9.0902 Child Restraint Devices - Evidence

1. If a child, under four years of age, is present in any motor vehicle, that motor vehicle must be equipped with at least one (1) child restraint system for each such child. The child restraint system must meet the standards adopted by the United States Department of Transportation for those systems (49 CFR 571.213). While the motor vehicle is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. If a child who is at least four and at most seventeen years of age is present in a motor vehicle, unless properly secured in an approved child restraint system, the child must be buckled in a seatbelt whenever the car is moving. Use of child restraint systems and seatbelts is not required in motor vehicles that were not equipped with seatbelts when manufactured.
2. Violation of this ordinance is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the

violation. (Source: North Dakota Century Code Section 39-21-41.2)

9.0903 Use of Safety Belts - Enforcement

Subject to the limitations of this section and section 39-21-41.5, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or seatbelt; to drivers of implements of husbandry; to operators of farm vehicles; to rural mail carriers while on duty delivering mail; to an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician states in a signed writing the nature of the condition and the reason restraint is inappropriate; or when all front seat safety belts are in use by other occupants. A physician who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability.

A peace officer may not issue a citation for a violation of this section unless the officer lawfully stopped or detained the driver of the motor vehicle for another violation. (Source: North Dakota Century Code Sections 39-21-41.4, 41.5)

9.0904 Drawbar or Connection Between Vehicles - Precautions Required

The drawbar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, shall be of such design, strength and construction so as to prevent the unintentional uncoupling of the vehicles. (Source: North Dakota Century Code Section 39-21-44.2)

9.0905 Modification of Motor Vehicle

Except as otherwise provided in this ordinance, a person may not operate upon a public highway a motor vehicle of a type required to be registered under the laws of this state with a weight of seven thousand (7,000) pounds (3175.14 kilograms) or less with alterations or changes from the manufacturer's original design of the suspension, steering or braking system of the motor vehicle. The weight must be computed on the basis of the unmodified and unloaded weight of the motor vehicle, and without regard to any ballast that may be placed in the vehicle. As to bumpers, motor vehicle height and permitted modifications, the following requirements also apply:

1. The motor vehicle must be equipped with front and rear bumpers.
2. The maximum body height permitted for a motor vehicle is forty-two (42) inches (106.68 centimeters). Measurement of body height is made from a level ground surface to the floor of the cargo area.
3. The maximum bumper height permitted is twenty-seven (27) inches (68.58 centimeters). Measurement of bumper height is made from a level ground surface to the highest point on the bottom of the bumper.
4. The vehicle may be modified in accordance with the following:

- a. Any modifying equipment must meet specialty equipment marketing association standards.
 - b. If tires placed on a motor vehicle have a diameter greater than that of the tires on the motor vehicle as manufactured, those tires must comply with Department of Transportation requirements.
 - c. The maximum outside diameter permitted for tires if forty-four (44) inches (111.76 centimeters).
 - d. A horizontal drop bumper may be used to comply with the bumper height requirement of subsection 3. The horizontal bumper must:
 - (1) Be at least three (3) inches (7.62 centimeters) in vertical width;
 - (2) Extend the entire horizontal body width; and
 - e. The maximum lift permitted in the suspension system is four (4) inches (10.16 centimeters).
5. A person charged with violating this ordinance has the burden of proceeding to show that the modifications are permitted under this section.
 6. Vehicles owned by law enforcement agencies, the military, fire fighting agencies and ambulances may be modified without regard to this ordinance. (Source: North Dakota Century Code Section 39-21-45.1)

9.0906 Scope and Effect of Equipment Requirements - Penalty

1. It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which the actor knows to be in such unsafe condition as to endanger any person, or which the actor knows does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter, or which the actor knows is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this ordinance. Unless otherwise specifically provided in this chapter or in section 39-06.1-08 or 39-06.1-09 of the North Dakota Century Code, any person who, in violation of this ordinance, drives, or any owner who causes or knowingly permits to be driven upon a highway, any vehicle or combination of vehicles which that person knows is unsafe or improperly equipped is guilty of an infraction.
2. Nothing contained in this ordinance may be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.
3. The provisions of this ordinance with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or farm tractors except as specifically made applicable.

4. The provisions of this ordinance with respect to equipment required on vehicles do not apply to motorcycles or motor-driven cycles, except as specifically made applicable.
5. The provisions of this ordinance do not apply to vehicles moved solely by human power, except as specifically made applicable. (Source: North Dakota Century Code Section 39-21-46)

9.0907 Alteration Of Odometers or Other Mileage Recorders - Penalty

A person may not willfully, as defined in Section 12.1-02-02, North Dakota Century Code, alter a motor vehicle odometer or other mileage recorded, hour meter on tachometer or other hour recorded for the purpose of deceiving another. Violation of this section is a class C felony if the person has previously been convicted of violating this section, or if the person has violated this section with respect to more than one vehicle, and a class B misdemeanor in all other cases. (Source: North Dakota Century Code Section 39-21-51)

ARTICLE 10 - Snowmobile Regulations

9.1001 Definitions:

For the purpose of this article, the following definitions are hereby adopted:

1. "Dealer" means every person, partnership, corporation or limited liability company engaged in the business of buying, selling or exchanging snowmobiles or who advertises or holds out to the public as engaged in the buying, selling or exchanging of snowmobiles or who engages in the buying of snowmobiles for resale.
2. "Operate" means to ride in or on and control the operation of a snowmobile.
3. "Operator" means every person who operates or is in actual physical control of a snowmobile.
4. "Owner" means a person, other than a lienholder, having the property in or title to a snowmobile entitled to the use or possession thereof.
5. "Person" includes an individual, partnership, corporation, limited liability company, association, the state and its departments, agencies and political subdivisions and any body of persons, whether incorporated or not.
6. "Register" means the act of assigning a registration number to a snowmobile.
7. "Registrar" or "Director" means the director of the Department of Transportation of this state as provided in Section 24-02-01.3 of the North Dakota Century Code.
8. "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel.

9. "Snowmobile" means a self-propelled vehicle designed for travel on snow, ice or a natural terrain and steered by skis or runners. (Source: North Dakota Century Code Section 39-24-01)

9.1002 Rules for Operation of Snowmobiles

1. Except as herein specifically permitted and authorized, it is unlawful for any person to operate a snowmobile within the limits of the City of Harvey, North Dakota. Specifically, it is unlawful to operate a snowmobile on the following:
 - a. On the portion of any right-of-way of any public street or alley used for motor vehicle travel, except the most right hand lane (Except in passing) which is used for vehicle traffic in the same direction. No snow mobile shall be operated at any time within the right-of-way of any interstate highway, except for emergency purposes.
 - b. On a public sidewalk provided for pedestrian travel.
 - c. On boulevards within any public right-of-way.
 - d. On private property of another without specific permission of the owner or person in control of said property.
 - e. On any other public place except as may be specifically permitted by other provisions of the City Ordinances.
 - f. On any roadway, shoulder or inside bank, street or highway in this City, except as provided pursuant to this ordinance.
2. A snowmobile may make a direct crossing of a street, or highway, provided:
 - a. The crossing is made at an angle approximately 90 degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing.
 - b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way.
 - c. The driver yields the right-of-way to all oncoming traffic on a through street or highway and the snowmobile must yield to the right-of-way to pedestrians.
 - d. In crossing a street or highway, the crossing is made only at an intersection at such street or highway with another public street or highway.
 - e. If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

3. It is unlawful for any person to operate a snowmobile any place within the limits of the City of Harvey, North Dakota, unless it is equipped with the following:
 - a. Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cut-out, by-pass, straight pipe or similar device on a snowmobile motor.
 - b. Brakes adequate to control the movement of and to stop and hold the snowmobile under any conditions of operation.
 - c. A safety or so-called "deadman" throttle in operating condition. A safety or "deadman" throttle as defined as a device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving track.
 - d. When operated between the hours of one-half hour after sunset to one-half hour before sunrise or at times of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. Such head lamp shall be so aimed so that glaring rays are not projected into the eyes of oncoming snowmobile operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.

All of the equipment must be in working order.

4. The emergency conditions under which a snowmobile may be operated other than as provided by this article shall be such as to render the use of an automobile impractical under such conditions at such period of time and location.
5. It is unlawful for any person to drive or operate any snowmobile in the following ways which are declared to be unsafe and a public nuisance:
 - a. At a rate of speed greater than 15 miles per hour and of a rate of speed that is greater than reasonable or proper under all the surrounding circumstances.
 - b. In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
 - c. While under the influence of intoxicating liquor or a drug as defined in Section 39-24.1-01 of the North Dakota Century Code, or a combination thereof.
 - d. Without a lighted headlamp and tail lamp when required for safety.

- e. In any tree nursery or planting in a manner which damages or destroys growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the snowmobile exhaust system.
 - g. Upon any private property of another without specific permission of the owner or person in control of the property.
 - h. During the hours from 11p.m. to 7a.m. of any day unless for ingress and egress, and specifically to return from a ride.
 - i. Within skating rink or sliding area where the operation would conflict with use or endanger other persons or property.
 - j. On the Brewster Street Hospital Zone between Adams Avenue and Devine Avenue between the hours of 9p.m. to 8a.m., except in an emergency.
 - k. In the West end park or Swimming Pool area at any time.
 - l. In Harvey Airport runways.
 - m. Lincoln Avenue shall be permitted at all intersections except on 8th street.
- 6. It is unlawful for any person to operate a snowmobile pursuant to Chapter 39-24 of the North Dakota Century Code without having in possession a valid driver's license or permit, except as provided by section 39-24-09.1.
 - 7. When snowmobiles are operated within the right of way of any road, street or highway of this state pursuant to this chapter, during times or conditions that warrant the use of lights, such snowmobiles shall travel in the same direction as the direction of motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the snowmobile.
 - 8. It is unlawful for any person to operate a snowmobile within a highway right of way as defined in subsection 37 of section 24-01-01.1 of the North Dakota Century Code between April 1 and November 1 of any year.
 - 9. No snowmobile may be operated at any time within the right of way of any highway within this state while towing a sled, skid or other vehicle, unless the sled, skid or other vehicle is connected to the snowmobile by a hinged swivel and secure hitch.
 - 10. No person under the age of eighteen years may operate, ride or otherwise be propelled on a snowmobile unless the person wears a safety helmet meeting United States department of transportation standards.
 - 11. The operator shall take the shortest route for ingress and egress to the City.

12. It is unlawful to intentionally drive, chase, run over or kill any animal with a snowmobile.
13. Every person leaving a snowmobile on a public place shall lock the ignition, remove the key and take the same with him.

9.1003 Persons under 14 years of age

1. No person under 14 years of age shall operate on streets, or make a direct crossing of a city street as the operator of a snowmobile.
2. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this section.

9.1004 Snowmobiles must follow all traffic laws.

All traffic ordinances shall apply to the operation of snowmobiles upon streets, except for those relating to required equipment, and except for those, which by their nature have no application.

ARTICLE 11 - Off-highway vehicles (OHV) Regulations:

9.1101 Definitions (NDCC 39-29-01)

Words and phrases used in this chapter shall have the meaning and be defined as provided in the North Dakota Century Code in Title 39, and NDCC including Section 39-01-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

For the purpose of this article, the following definitions are hereby adopted:

1. **Dealer:** Any persons who advertises or holds out to the public his or her engagement in the buying, selling, resale, or exchange of off-highway vehicles.
2. **Off-highway vehicles (OHV):** A motor-driven, off-road, Recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. This includes, but is not limited to, multi-track vehicles, multi-wheel or low pressure tire vehicles, belt-driven vehicles, and amphibious machines (dirt bikes, 3-wheelers, 4-wheelers, off-road utility vehicles, etc)

Class I: *off-highway vehicle has two low pressure tires, a saddle seat designed to be straddled by the operator, and it is steered by the use of handlebars.*



Class II: off-highway vehicle has three or more low pressure tires, a saddle seat designed to be straddled by the operator, and it is steered by the use of handlebars.



Class III: off-highway vehicle has three or more low pressure tires, a seat designed for the operator, and a wheel for steering control.



3. **Operate:** To ride in or on an off-highway vehicle and control it's operation.
4. **Operator:** A person who operates or is in physical control of an off-highway vehicle.
5. **Owner:** A person, other than a lien holder, having the property in, or title to, an off-highway vehicle and is entitled to its use of possessions.
6. **Register:** The act of assigning a registration number to an off highway vehicle.
7. **Motor Vehicle:** Any vehicle that is self-propelled, or any vehicle that is propelled by electric power obtained from overhead trolley wire and does not operated upon rails. Motorized bicycles are considered motor vehicles for purposes of motor vehicle registration, title registration, and operator's licenses.

1. The application for registration of each off-highway vehicle is made by the North Dakota Department of Transportation at any licensing office statewide.
2. The off-highway vehicle application should state each owner's name and address, and it should be signed by at least one owner.
3. A copy of the off-highway vehicle application is evidence of registration up to 30 days following the date of application.
4. Upon receipt of the application and fees, the North Dakota Department of Transportation will register the off highway vehicle and assign it a registration number. Also, a certificate of registrations will be issued and will include information regarding the make, year, and serial number of the off-highway vehicle, along with the name and address of the owner.

9.1103 Fees (NDCC 39-29-03)

1. The registration fee of each off-highway vehicle is five dollars. This fee covers a registration period of two years.

9.1104 Display (NDCC 39-29)

1. Class I OHV - The license sticker should be displayed on the upper left tube of the forks just below the handle bars.
2. Class II OHV - The license sticker should be displayed on the rear of the left front fender unless covering warning stickers. In this case place it on the left rear fender.
3. Class III OHV - The license sticker should be displayed on the left rear quadrant of the vehicle visible from the rear.

9.1105 Expiration & Renewal (NDCC 39-29-03)

1. Off-highway vehicle registration fees must be paid every two years. The owner of an off-highway vehicle can renew his or her vehicle registration by paying the five dollar registration fee and five dollar off-highway trail tax to the North Dakota Department of Transportation.

9.1106 Replacement (NDCC 39-29-03)

1. There is a five-dollar fee for the duplication or replacement of a registration number or registration card which is lost, mutilated, or becomes illegible.

9.1107 Transfer of Ownership (NDCC 39-29-06)

1. A new application for registration must be submitted to the North Dakota Department of Transportation within 15 days of transferring ownership.

9.1108 General Operations

1. Must have the following in order to operate a Class II or Class III OHV in the city limits of Harvey
 - a. A valid motor vehicle driver's license and current liability insurance.
 - b. Required OHV Equipment (NDCC 39-29-09)

An individual may operate a Class II and Class III off-highway vehicle on the streets, alleys and maintained roadways of Harvey only if it is equipped with the following equipment, all of which must be in working order:

- One headlamp
 - One horn
 - One tail lamp
 - Speedometer
 - One brake light
 - One mirror
 - Motor with a minimum of 200 cubic centimeters for Class II
 - Motor with a minimum of 352 cubic centimeters for Class III
2. Class I off-highway vehicle cannot be operated with in the city limits of Harvey.
 3. Where You May NOT Ride (NDCC 39-29-09)
 - a. Public lands that are not designated as trails or riding areas (this includes state parks and wild life management areas).
 - b. Any tree nursery or planting area
 - c. United States, state, or interstate highways or right of ways.
 - d. You may not ride ON railroad tracks, but you may directly cross them.
 - e. An off-highway vehicle may not be operated in the right of way of any highway when towing a sled, skid, or any other vehicle, unless the object is connected to the off-highway vehicle by hinged swivel or a secure hitch.
 4. Liability Insurance (NDCC 39-08-20)
 - a. A person **may not operate an OHV without liability insurance** while on public lands. The liability insurance insures the OHV owner named on the policy and any operator of that OHV, with permission of the owner. Upon request of a law enforcement officer, a person operating an OHV shall provide proof of liability insurance.
 5. Other Prohibitions (NDCC 39-29-09)

An individual may not operate an off-highway vehicle in the following of ways, which are declared to be unsafe and a public nuisance:

- a. At an unreasonable rate of speed in relation to surrounding circumstances.
- b. In a careless, reckless, or negligent manner that endangers the rider or property of another, or causes injury or damage to other persons or their property.
- c. While under the influence of intoxicating liquor or a controlled substance.
- d. Without a manufacturer-installed or equivalent muffler that is in good working order and connected to the off-highway vehicle's exhaust system.
- e. No person may kill, chase, or harass any protected or unprotected wild animal or bird while operating an off-highway vehicle.
- f. On any private land that is posted as prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of no more than 880 yards apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of these signs at or on all gates through the fence or enclosure.

6. Speed (NDCC 39-29-09)

- a. If operating on public roads, the right of way or on public trails, you must **obey the posted speed limit**. Otherwise, you must maintain a reasonable and proper rate of speed in accordance with terrain conditions.

7. Crossing Public Roads (NDCC 39-29-09)

The operator of an off-highway vehicle may make a direct crossing of a street or highway only if:

- a. The crossing is made at an angle approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
- b. The off-highway vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
- c. The operator yields the right of way to all oncoming traffic which constitutes an immediate hazard.
- d. In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.

8. Youth Operators (NDCC 39-29-10)

- a. Any person under the age of 16 without a valid driver's license may not operate an off highway vehicle.
 - b. No person under the age of 18 may ride or otherwise be propelled by an off-highway vehicle without a safety helmet, meeting the United States Department of Transportation standards.
 - c. No operator of an off-highway vehicle may carry a passenger unless the off-highway vehicle is designed with an appropriate passenger seat.
9. Riding with Passengers (NDCC 39-29-09)
- a. Riding with passengers is limited to those off-highway vehicles that are equipped with a passenger seat.
 - b. Children under six years of age should never ride as passengers.

All traffic ordinances shall apply to the operation of OHV upon streets, except for those relating to required equipment, and except for those, which by their nature have no application.

ARTICLE 12 - Adoption of Amendments by Reference

The adoption of certain portions of Title 39 by reference shall be construed to incorporate such amendments as may be made therein from time to time.

ARTICLE 13 - Severability Clause

If any provision of this ordinance or its application to any person, or circumstances is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

ARTICLE 14 - Penalties

9.1401 Convicted

Any person who is convicted of violating or of failing to comply with any of the provisions of this ordinance may be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not to exceed thirty (30) days, or both.

9.1402 Failure to appear, Pay Statutory Fee, Post Bond - Procedure - Penalty

The provisions of North Dakota Century Code Section 39-06.1-04 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

If a person fails to pay the statutory fee for the violation, or appear at the time scheduled for the hearing, the person must be deemed to have admitted to commission of the violation charged, and the official having jurisdiction shall report such fact to the licensing authority within ten (10) days after the date set for the hearing. Failure

to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond is a class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

9.1403 Amount of Statutory Fees

The North Dakota Century Code provisions in Title 39 and all subsequent amendments shall be and are hereby incorporated by reference.