

## **ORDINANCE NO. 385**

AN ORDINANCE AMENDING AND RE-ENACTING PARTICULAR SECTIONS OF THE CITY CODE OF THE CITY OF BEACH, NORTH DAKOTA AS HEREINAFTER SET FORTH

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEACH, NORTH DAKOTA, AS FOLLOWS:

Section 1: Section 1.0102 entitled "Defining the City Limits" is hereby amended and re-enacted as follows:

1.0102 DEFINING THE CITY LIMITS: There shall be included with the municipal limits of the City of Beach, North Dakota, the following territory or land; all lots and blocks shall also include all streets, alleys, and public ways included within the area and adjacent thereto, which are defined as within the confines of the City Limits.

The Incorporated Limits of the City of Beach, Golden Valley County, North Dakota, includes those lands included in and shown on the official Boundary Map, which shall be on file in the office of the City Auditor. This map is hereby made a part of this Code. This map shall reflect the ordinances adopted prior to this date and all ordinances adopted after this date relating to the boundaries of the City. The City Auditor is authorized and directed to make the necessary changes upon the official Boundary Map in accordance with such ordinances as they are from time to time enacted. tracts lying entirely within Section 23, 24, 25 and 26, Township 100 North, Range 106 West of the 5<sup>th</sup> Principal Meridian, more particularly described as follows, to wit:

~~COMMENCING At a point which is the southwest corner of Lot 15, Block 1 of Carlson's First Addition to the City of Beach, as said Carlson's First Addition is platted and surveyed in said Section 24, said point also being on the east property line of First Avenue East; thence in a southerly direction along the east property line of said First Avenue East to a point which is 66.0 feet due east of the southeast corner of Lot 7, Block 4 of Mrs. Richard's Addition to the City of beach, as said Mrs. Richard' Addition is platted and surveyed in said Section 24, said point also being 33.0 feet north of the south line of Section 24; thence in an easterly direction along a line 33.0 feet north of and parallel to the south line of Seetion 24, to a point which is 30.0 feet west of the southwest corner of Lot 7, Block 4 of Richard's Heights, as said Richard's Heights is platted and surveyed in said Section 24; thence in a northerly direction along a line parallel to the west property lines of Blocks 4 and 5 of said Richard's Heights to a point which is the southeast corner of Lot 13, Block 1 of Carlson's First Addition to the City of Beach; thence in a westerly direction along the south property line of Block 1 of said Carlson's First Addition, a distance of 331.0 feet to the POINT OF BEGINNING.~~

Beginning at a point which is the northwest corner of said Section 26; thence in a southerly direction along the west line of said Section 26, to a point which is the southwest corner of the Northwest Quarter of said Section 26, said point also being the southwest corner of the Resurvey of Near's Addition to the City of Beach, as said Resurvey is platted and surveyed in said Section 26; thence in an easterly direction along the south line of the northwest quarter of said Section 26 and along the south line of Lot A of said Resurvey of Near's Addition, to a point which is the southeast corner of the Northwest Quarter of said Section 26; thence in a southerly direction along the west line of Southeast Quarter of said Section 26, to a point which is the southeast corner of the Southeast Quarter of said Section 26; thence in an easterly direction along the south line of the Southeast Quarter of Section 26, to a point which is the southeast corner of the Southeast Quarter of said Section 26; thence continuing in an easterly direction along the south line of the Southwest Quarter of Section 25, to a point which is the southeast corner of the Southwest Quarter of said Section 25; thence in a northerly direction along the east line of the Southwest Quarter of said Section 25, to a point which is the northeast corner of the Southwest Quarter of said Section 25, said point also being 33.0 feet east of the southeast corner of Lot 1, Block 7 of Hunter's Addition to the City of Beach, as said Hunter's Addition is platted and surveyed in said Section 25; thence in an easterly direction along the south line of the Northeast Quarter of said Section 25 and also to and along the south property line of Block 1 of Potter's Addition to the City of Beach, as said Potter's Addition is platted and surveyed in said Section 25, and also to and along the south property lines of Blocks 26, 27, 28, and 29 of Glenhaven Park Addition to the City of Beach, as said Glenhaven Park Addition is platted and surveyed in said Section 25, to a point which is the southeast corner of the Northeast Quarter of said Section 25; thence in a northerly direction along the east line of the Northeast Quarter of said Section 25 to a point which is the northeast corner of the Northeast Quarter of Section 25; thence in a westerly direction along the north line of the Northeast Quarter of said Section 25, said line also being the centerline of 4<sup>th</sup> Avenue North, to a point which is the northwest corner of the Northeast Quarter of Section 25; thence in a northerly direction along the east line of the Southwest Quarter of Section 24, to a point which is the northeast corner of the South Half of the Southwest Quarter of said Section 24; thence in a westerly direction along the north line of the South Half of the Southwest Quarter of said Section 24, to a point which is the northwest corner of Lot 1, Block 3 of Carlson's Addition to the City of Beach, as said Carlson's Addition is platted and surveyed in said Section 24, said point also being on the east line of Mrs. Richard's Addition to the City of Beach, as said Mrs. Richard's Addition is platted and surveyed in said Section 24; thence in a northerly direction along the east line of said Mrs. Richard's Addition, to a point which is the northeast corner of said Mrs. Richard's Addition; thence in a westerly direction along the north line of said Mrs. Richard's Addition, a distance of 400.0 feet to a point which is the northwest corner of said Mrs. Richard's Addition; thence in a southerly direction along the west line of said Mrs. Richard's Addition to a point which is the northeast corner

of McLaren's 2<sup>nd</sup> Addition to the City of Beach, as said McLaren's 2<sup>nd</sup> Addition is platted and surveyed in said Section 24; thence in a westerly direction along the north line of said McLaren's 1<sup>st</sup> Addition and to and along the north line of Johnstone's 1<sup>st</sup> Addition to the City of Beach, as said Johnstone's 1<sup>st</sup> Addition is platted and surveyed in said Section 24, extended to the west line of said Section 24, a distance of 125.0 feet, said west line of Section 24 also being the centerline of First Street; thence in a northerly direction along the west line of said Section 24, to a point which is 90.0 feet west of the southwest corner of Carlson's Third Addition to the City of Beach, as said Carlson's Third Addition is platted and surveyed in said Section 24; thence in an easterly direction to and along the south line of said Carlson's Third Addition, a distance of 330.0 feet to the southeast corner of said Carlson's Third Addition; thence in a northerly direction along the east line of said Carlson's Third Addition, a distance of 250.0 feet to a point which is the northeast corner of said Carlson's Third Addition; thence in a westerly direction along the north line of said Carlson's Third Addition, extended to the west line of said Section 24, a distance of 330.0 feet, said west line of Section 24 also being the centerline of First Avenue; thence in a northerly direction along the west line of said Section 24 to a point which is on a bearing of S65°49'E of the northeasterly corner of Carlson's 2<sup>nd</sup> Addition to the City of Beach, as said Carlson's 2<sup>nd</sup> Addition is platted across said Section 24; thence in a northwesterly direction on a bearing of N65°49'W to a point which is on the east line of said Carlson's 2<sup>nd</sup> Addition; thence continuing on a bearing of N65°49'W along the northerly boundary of said Carlson's 2<sup>nd</sup> Addition, a distance of 657.98 feet; thence in a westerly direction along the north line of said Carlson's 2<sup>nd</sup> Addition, a distance of 399.8 feet to the northwest corner of said Carlson's 2<sup>nd</sup> Addition; thence in a southerly direction, along the west line of said Carlson's 2<sup>nd</sup> Addition a distance of 1645.4 feet to the north line of the Southeast Quarter of Section 23, said point also being 33.0 feet south of the southwest corner of Block 2 of said Carlson's 2<sup>nd</sup> Addition; thence in an easterly direction along the north line of the Southeast Quarter of said Section 23, to a point which is 33.0 feet north and 33.0 feet west of the northwest corner of Lot 8, Block 8 of Woodhull's First Addition to the City of Beach, as said Woodhull's First Addition is platted and surveyed in said Section 23, said point also being the intersection of the centerline of 3<sup>rd</sup> Street West and 11<sup>th</sup> Avenue North; thence in a southerly direction along the centerline of said 3<sup>rd</sup> Street West to a point which is the centerline of said 3<sup>rd</sup> Street West and 10<sup>th</sup> Avenue North; thence in a westerly direction along the centerline of said 10<sup>th</sup> Avenue North and paralleling the north line of the Southeast Quarter of said Section 23, to a point which is 33.0 feet north and 33.0 feet west of the northwest corner of Lot 7, Block 22 of Woodhull's 2<sup>nd</sup> Addition to the City of Beach, as said Woodhull's 2<sup>nd</sup> Addition is platted and surveyed in said Section 23, said point also being the intersection of the centerline of 6<sup>th</sup> Street West and 10<sup>th</sup> Avenue North; thence in a southerly direction along the centerline of said 6<sup>th</sup> Street West to a point which is the intersection of the centerline of 6<sup>th</sup> Street West and 6<sup>th</sup> Avenue North, said point also being 33.0 feet west and 33.0 feet south of the southwest corner of Lot 12, Block 9 of said Woodhull's 2<sup>nd</sup> Addition; thence

in a westerly direction along the centerline of 6<sup>th</sup> Avenue North to the west line of the Southeast Quarter of said Section 23, said point also being 33.0 feet north and 33.0 feet west of the northwest corner of Lot 10, Block 24 of Woodhull's 1<sup>st</sup> Addition to the City of Beach; thence in a southerly direction along the west line of the Southeast Quarter of said Section 23 to the southwest corner of the Southeast Quarter of said Section 23; thence in a westerly direction along the south line of the Southwest Quarter of said Section 23, to a point which is the southwest corner of the Southwest Quarter of said Section 23, said point also being the northwest corner of the Northwest Quarter of said Section 26, and the POINT OF BEGINNING.

EXCLUDED From the above described incorporated limits is the following tract:

A tract of land lying in the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section 24, Township 140 North, Range 106 West of the 5<sup>th</sup> P.M., Golden Valley County, North Dakota, more particularly described as follows, to wit:

Beginning at a point 693 feet east of the South Quarter corner of said Section 24; thence in an easterly direction on an azimuth bearing of 090°16', a distance of 400.0 feet along the previously incorporated city limits; thence in a northerly direction on an azimuth bearing of 360°00', a distance of 427.0 feet; thence in a westerly direction on an azimuth bearing of 270°16', a distance of 400.0 feet; thence in a southerly direction on an azimuth bearing of 180°00', a distance of 427.0 feet to the POINT OF BEGINNING.

Tract contains 3.9 acres, according to the above description. The south 400.0 feet of the west 750.0 feet of the east 1550.0 feet of the Southeast Quarter of Section 24, Township 140 North, Range 106 West, 5<sup>th</sup> P.M., Golden Valley County, North Dakota. Containing 6.88 acres.

Section 2: Section 1.0103 entitled "Division of the City into Precincts" is hereby amended and re-enacted as follows:

1.0103 DIVISION OF THE CITY INTO PRECINCTS: There shall be one precinct within the City of Beach to be designated as "The City of Beach." The precinct shall consist of all that part of the City of Beach hereinabove set forth. The polling place for said precinct shall be located at the Beach High School Beach Community Center or other legally designated location.

Section 3: Section 1.0207 entitled "Salaries" is hereby amended and re-enacted as follows:

1.0207 SALARIES: The salary of the Mayor of the governing body of the City of Beach shall be the sum of ~~Three Thousand Six Hundred DOLLARS (\$3,600.00)~~ Five Thousand Four Hundred Dollars (\$5,400.00) per year.

The salary of other members of the city council of the City of Beach shall be the sum of Three Thousand Six Hundred DOLLARS(\$3,600.00) ~~(\$3,000.00)~~ per person per year

Section 4: Section 1.0209 entitled “Voting” is hereby amended and re-enacted as follows:

1.0209 VOTING: Unless otherwise specifically provided by law, all votes of whatever kind taken at a council meeting must be open public votes, and all non-procedural votes must be recorded roll call votes with the votes of each member being made public at the open meeting. The minutes shall show the results of every vote taken and shall show the recorded votes of each member of every recorded roll call vote. Each ~~councilmen~~ council member present is obligated to vote on a measure presented to the City Council. A pass vote is to be considered as a vote with the remaining majority if a quorum is present. If a member of the council for reason or cause does not wish to act or participate in a matter before the council, he or she shall cause same to be entered on the record of the proceedings and the council shall then proceed, as if said member or members were absent.

Section 5: Section 1.0210 entitled “City Council” is hereby amended and re-enacted as follows:

1.0210 CITY COUNCIL: The governing body of the City shall be the City Council which shall be composed of the mayor and council members, ~~aldermen~~.

Section 6: Section 1.0211 entitled “Members of Councilmen – Qualifications – Election of ~~Alderman~~ Councilmen – Term of Office – Compensation of ~~Aldermen~~ Councilmen – Authority” is hereby amended and re-enacted as follows:

1.0211 MEMBERS OF COUNCIL – QUALIFICATIONS – ELECTION of COUNCILMEN MEMBERS – TERM OF OFFICE – COMPENSATION OF COUNCILMEN MEMBERS – AUTHORITY: The number of council members, ~~councilmen~~, the election of council members ~~councilmen~~ and the mayor, the qualifications of the mayor and council members, ~~councilmen~~, the term of office of the council member ~~councilmen~~ and the mayor, the authority and restrictions on council members ~~councilmen~~, shall be governed by the provisions pertaining thereto in Chapter 40-08 of NDCC as now appears or may be hereinafter amended.

Section 7: Subsection (B) of Section 1.0212 entitled “Rules of Procedure Generally” is hereby repealed.

Section 8: Section 1.0213 entitled “President and Vice-President—Election of,

Authority" is hereby amended and re-enacted as follows:

1.0213 PRESIDENT AND VICE-PRESIDENT--ELECTION OF, AUTHORITY: At the organization meeting in each even-numbered year, the council members shall elect one of their members a president and one a vice-president to hold the council members shall elect one member as president and one as vice president to hold office until their successors are elected. The president of the city council shall be the presiding officer of the council in the absence or temporary disability of the mayor. In the absence or disability of the mayor and president of the city council, the vice-president shall be the presiding officer.

Section 9: Section 1.0214 entitled "Vacancy in the Office of a Council Member" is hereby amended and re-enacted as follows:

1.0214 VACANCY IN THE OFFICE OF A COUNCIL MEMBER: If a vacancy shall occur in the office of mayor or council member ~~councilmen~~, such vacancy shall be filled pursuant to the rules and procedures set forth in Chapter 40-08 NDCC as the same now appears or may hereinafter be amended.

Section 10: Section 1.0502 entitled "Procedure" is hereby amended and re-enacted as follows:

1.502 PROCEDURE: All supplies and contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed [Fifty Thousand] Five Thousand DOLLARS (\$50,000.00), shall be purchased from the lowest responsible bidder after due notice inviting proposals. All sales or dispositions of obsolete or unusable property when the estimated values shall exceed Twenty thousand-five hundred DOLLARS (\$20,050.00), shall be sold upon resolution by the city council authorizing the public sale of said property, a notice containing a description of the property to be sold and designating the place where and the day and the hour when the sale will be held shall be published in the City's official newspaper as provided in Section 40-01-09 NDCC once each week for two consecutive weeks with the last publication being at least ten (10) days in advance of the date set for the sale. The notice shall specify whether the bids are to be received at auction or as sealed bids as determined by the city council. The property advertised shall be sold to the highest bidder if his bid is deemed sufficient by the majority of the members of the city council. The lowest responsible bidder, or the highest responsible bidder, shall be the bidder who in addition to price has the best ability, capacity and skill to perform the contract to provide the service required, promptly or within the specified time without delay or interference. There shall also be considered character, integrity, reputation, judgment, experience and efficiency of the bidder, the quality of the performance of previous contracts, sufficiency or financial resources, and previous and existing compliance with state laws and city ordinances.

Section 11: Section 2.0105 entitled “Ordinance Book Required” is hereby amended and re-enacted as follows:

2.0105 ORDINANCE BOOK REQUIRED: The city auditor shall record in an ordinance book all ordinances finally passed and approved, and when any ordinance has been published, he or she shall record therein the Affidavit of Publication or Posting. The ordinance book, or copies of ordinances as recorded therein, certified by the city auditor, shall be received as evidence without further proof. If the ordinances of a municipality have been printed in a book or pamphlet form by authority of the city council, such book or pamphlet shall be received as evidence of the existence of the ordinances therein contained.

Section 12: Section 2.0108 entitled “Confinement as Payment of Cost” is hereby repealed.

Section 13: Section 2.0109 entitled “Labor in Lieu of Fine” is hereby repealed.

Section 14: Section 2.0110 entitled “Refusal to Work” is hereby repealed.

Section 15: Section 2.0111 entitled “Deferring or Suspending Sentence” is hereby repealed.

Section 16: Section 2.0112 entitled “Fines and Forfeitures for Violations of Ordinances Paid into City Treasury” is hereby amended and re-enacted as follows:

2.0112 FINES AND FORFEITURES FOR VIOLATION OF ORDINANCES PAID INTO CITY TREASURY: All fines, penalties, and forfeitures collected for offenses against the ordinances of the city shall be paid into its treasury at the end of the month in which it is forfeited or collected ~~along with the municipal judge's monthly report.~~

Section 17: Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 18: Severability. In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Ordinance shall continue in full force and effect.

Section 19: Effective Date: This Ordinance shall be in full force and effect from and after final passage.

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Henry Gerving, Mayor

ATTEST:

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Kimberly Gaugler, City Auditor

First Reading: April 1, 2019

Second Reading: April 15, 2019

Final Passage: