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ARTICLE 1 – PROCEDURE

2.0101. Enacting Clause for Ordinances. The enacting clause for every ordinance adopted by the City of Rutland shall be “Be it ordained by the City council of the City of Rutland. Such caption, however, may be omitted where the ordinances are published in book form, or are revised and digested.

2.0102. Procedure in Passing Ordinances. All ordinances shall be read twice and the second reading and final passage shall not be had in less than one week after the first reading. After the first reading and before final passage, an ordinance may be amended. Except as otherwise specifically provided, a majority of all of the members of the governing body must concur in the passage of an ordinance, and in the creation of any liability against the city, and in expending and in appropriating money.

2.0103. Yea and Nay Vote on Passage – When Required. Division of City into Precincts. There shall be one (1) precinct within the city of Rutland to be known and designated as Precinct Number One. Said precinct shall consist of all that part of the city of Rutland which lies within the corporate limits of the City of Rutland. The polling place shall be located at the city Hall of the City of Rutland, or at such other appropriate location as the City Council shall designate by resolution.

2.0104. Reconsideration of Rescinding Vote. No vote of the City Council shall be reconsidered or rescinded at a special meeting unless at such special meeting there is present as large a number of members as was present when such vote was taken.

2.0105. Publication of Ordinances. The title and penalty clause of every ordinance imposing any penalty, fine, imprisonment, or forfeiture for violation of its provisions after the final adoption of such ordinance, shall be published in one issue of the official paper of the of the municipality.

2.0106. Effective Date of Ordinances. Ordinances finally approved by the City Council and which require publication shall take

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effect and be in force from and after the publication thereof, unless otherwise expressly provided in the ordinance. Ordinances which do not require publication shall take effect and be in force from and after the final approval thereof unless otherwise expressly provided therein.

2.0107. Effect of Repeal. When any ordinance repealing a former ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided.

2.0108. 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 Mayor of the City of Rutland may appoint, by and with the advice and consent of the City Council, one or more competent persons to prepare and submit to the City Council 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 the City of Rutland. The attorney for the city, if one has been appointed, 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 City Council 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.

2.0109. 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 and fine, to enforce any penalty, or to punish any violation of an ordinance of The City of Rutland 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 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.

2.01110. Summons to Issue on Violation of Ordinance – When Warrant or Arrest to Issue. The provisions 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.

2.0111. Commitment of Guilty Person for Non-payment of Fines or Costs. The provisions 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 or 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.

2.0112. 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 again the person convicted.

2.0113. Judgment of Conviction. In all trials for offenses under the ordinances of the City of Rutland if the defendant is found guilty, the municipal judge shall render judgment accordingly. It shall be a part of the judgment that the defendant stands committed until such judgment is complied with, and, at the discretion of the municipal court, he may be required to work for the municipality at such labor as the defendant’s strength and health will permit, not exceeding 8 hours in each working day. For that work, the defendant will be allowed for each day exclusive of his board, \$10.00 on account of the fines and costs assessed against him.

2.0114. 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.

2.0115. 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 of 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.

2.0116. 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 Rutland shall be paid into its treasury. Under no circumstances shall the municipal judge remit fines or penalties or payments of costs.

2.0117. 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 Rutland, then and there impose a sentence of imprisonment as may be regulated by such ordinances, or defer imposition of sentence or suspend 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 prescribe; 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.

2.0118. Sentencing Alternatives. The provisions of Section 40-18-13 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

This section shall not be constructed to prohibit the utilization of the sentencing alternatives, other than a fine or imprisonment, provided by Section 12.1-32-02 for the violation of a city ordinance, nor shall this section limit the use of deferred or suspended sentences pursuant to chapter 12-53.

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Adoption: Entire Ordinance adopted by the Rutland City Council,
August 5, 1996.