

COUNTIES

CHAPTER 110

H. B. No. 785

(Adamsen, Baldwin, Roen, Wicks, Anderson of Richland,
(Engen, Esterby and Sorlie)

SALARIES OF COUNTY OFFICERS

AN ACT

To amend and reenact subsection 2 of section 11-1010 of the North Dakota Revised Code of 1943, relating to salaries of county officers, and repealing subsection 4 of section 11-1010 of the North Dakota Revised Code of 1943 and section 11-10102 of the 1953 Supplement thereto.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Subsection 2 of section 11-1010 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. The county auditor, county treasurer, sheriff, county superintendent of schools, register of deeds, county judge, state's attorney, and clerk of the district court each shall receive the following annual salary, payable monthly, for official services rendered:
 - a. Three thousand four hundred dollars in counties having a population not exceeding six thousand;
 - b. Three thousand five hundred dollars in counties having a population exceeding six thousand and not exceeding eight thousand;
 - c. Three thousand six hundred dollars in counties having a population exceeding eight thousand population plus additional compensation of seventy dollars per year for each one thousand additional population or major fraction thereof, but not to exceed the total sum of four thousand six hundred dollars;
 - d. In counties having a population in excess of thirty thousand the sum of five thousand dollars;
 - e. In counties having a county court of increased jurisdiction and a population of not to exceed fifteen thousand the county judge shall receive the sum of four thousand six hundred dollars;

- f. In counties having a county court of increased jurisdiction and a population in excess of fifteen thousand but not in excess of forty thousand population the county judge shall receive the sum of five thousand dollars; and
- g. In counties having a county court of increased jurisdiction and a population in excess of forty thousand a county judge shall receive the sum of six thousand eight hundred dollars.

Provided that all fees, collected by judges of county courts of increased jurisdiction in counties having a population in excess of forty thousand, for certified copies of public records shall be paid over by such county judge to the county treasurer to be credited to the general fund of the county. The salaries provided in this subsection shall be the only salaries paid to such officers by the county and the salary provided for the county superintendent shall be full compensation for services rendered as superintendent of schools and as secretary of the school district reorganization committee. The provisions of this section authorizing increase in salaries as herein provided shall be retroactive to January 1, 1955.

§ 2. Repeal.) Subsection 4 of section 11-1010 of the North Dakota Revised Code of 1943 and section 11-10102 of the 1953 Supplement thereto are hereby repealed.

Approved March 7, 1955.

CHAPTER 111

H. B. No. 619
(Brown and Sorlie)

SALARIES OF COUNTY COMMISSIONERS

AN ACT

To amend and reenact subsection 3 of section 11-1010 of the 1953 Supplement to the North Dakota Revised Code of 1943 relating to salaries of county officers and declaring an emergency and making the provisions of this Act retroactive to January 1, 1955.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) That subsection 3 of section 11-1010 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-1010. Salaries of County Officers.)

3. Each county commissioner shall be allowed the sum of ten dollars per day while performing his duties in attending meetings of the board of county commissioners of which he is a member or when engaged in other official duties, and an allowance for each meal consumed while any such meeting of the board of county commissioners continues in session, provided that no more than three meals shall be charged and collected for in any twenty-four hour period, and actual lodging expense of not to exceed four dollars for each night's lodging necessarily required while any such meeting of the board of county commissioners continues in session, and shall not be entitled to any allowance for meals or lodging while performing official duties in the county wherein he resides other than the attendance at meetings of the board of county commissioners of which he is a member as herein provided. Claims for meals and lodging as herein provided shall be covered by a sub-voucher or receipt as provided by section 21-0501 of the 1953 Supplement to the North Dakota Revised Code of 1943. If a meeting of a board of county commissioners is of more than one day's duration, a county commissioner may charge for and collect mileage or other transportation expense for travel actually made in going to his home and returning therefrom for each overnight period that the meeting may remain in session, but shall not be entitled to charge and collect for an evening meal on the date of going to his home or a morning meal on the date of his return. Each county commissioner while engaged in official duties outside of the county of which he is a resident shall be allowed board and lodging as provided in section 44-0804 of the 1953 Supplement to the North Dakota Revised Code of 1943 as now constituted or hereafter amended upon claims therefor properly itemized and supported by sub-voucher or receipt as provided in section 21-0501 of the 1953 Supplement to the North Dakota Revised Code of 1943. For the purpose of collecting per diem, living expenses, and transportation expenses incident to the attendance of any county commissioner at any statewide meeting of the North Dakota county commissioners association, such attendance at said meeting shall be considered the performance of an official duty within the meaning of this section. Each county commissioner while performing official duties shall be allowed his actual transportation expenses not in excess of the amounts provided in section 11-1015 of the 1953 Supplement to the North Dakota Revised Code of 1943 as now in effect or hereafter amended, and when such transportation is furnished by rail or other common carrier including regularly scheduled airlines, such claims shall comply in all respects with section 21-0501 of the 1953 Supplement to the

North Dakota Revised Code of 1943. No county commissioner residing within the corporate limits of the county seat may charge for and collect for mileage or other sums in lieu thereof, or for meals and lodging, for attending any meeting of the board of county commissioners of which he is a member or for attending any statewide meeting of the North Dakota county commissioners association held in the county seat where he resides. Total compensation and expenses, including per diem, board and lodging, and transportation expense, received by any member of a board of county commissioners shall be charged to and paid from the general fund of the county only and shall not exceed for each fiscal year the following amounts: In counties having a population of eight thousand or less, one thousand four hundred dollars (\$1,400.00); in counties having a population of over eight thousand and less than fifteen thousand, two thousand one hundred and fifty dollars (\$2,150.00); and in counties having a population of over fifteen thousand, two thousand seven hundred dollars (\$2,700.00), and for the purpose of fixing the maximums herein provided, population figures shall be those established by the most recent federal census.

§ 2. Retroactive.) The provisions of this Act shall be construed as authorizing the compensation herein provided for from and after January 1, 1955.

§ 3. Savings Clause.) If any section, clause or provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

§ 4. Emergency.) This Act is declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 3, 1955.

CHAPTER 112

S. B. No. 235
(Holand, Knudson)

POWERS OF BOARDS OF COUNTY COMMISSIONERS

AN ACT

Amending and reenacting subsections 12 and 13 of section 11-1114, and creating and enacting subsection 14 of section 11-1114 of the North Dakota Revised Code of 1943, relating to the powers of a board of county commissioners.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 11-1114 of the North Dakota Revised Code of 1943 is hereby amended by amending and reenacting subsections 12 and 13 thereto and creating subsection 14 thereto, which subsections are enacted to read as follows:

12. To purchase lands in lieu of those sold;
13. To grant to any person the right-of-way for the erection of telephone lines, electric light systems, or gas or oil pipeline systems over or upon public grounds, county streets, roads, or highways; and
14. To do and perform such duties as are prescribed by law.

Approved March 3, 1955.

CHAPTER 113

H. B. No. 697
(Gefreh and Adamsen)

SHERIFF'S MILEAGE

AN ACT

To amend and reenact section 11-1512 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to sheriff's mileage.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 11-1512 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-1512. Sheriff's Mileage.) A sheriff or his deputy for each mile actually and necessarily traveled within this state in the performance of official duties, shall be allowed and paid only the following amounts:

1. The sum of ten cents per mile when travel is by team or motor vehicle;
2. When travel is by rail or other common carrier the amount actually and necessarily expended therefor.

When such travel is outside the state in the performance of official duties, whether by motor vehicle or by rail or other common carrier, such officer shall be allowed and paid seven and one-half cents per mile when such travel is by motor vehicle and if by rail or other common carrier his actual and necessary travel expenses.

Approved March 2, 1955.

CHAPTER 114

S. B. No. 66
(Duffy)

INSTRUMENTS ENTITLED TO RECORD WITHOUT REGARD TO TAXES

AN ACT

To amend and reenact section 11-1803 of the North Dakota Revised Code of 1943 relating to instruments entitled to record without regard to taxes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 11-1803 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-1803. Instruments Entitled to Record Without Regard to Taxes.) The following instruments may be recorded by the register of deeds without the auditor's certificate referred to in section 11-1802:

1. A sheriff's or referee's certificate of sale on execution or on foreclosure of a mortgage;
2. A mineral deed conveying oil, gas, and other minerals in or under the surface of lands;
3. A final decree of distribution, which must be presented to the auditor's office prior to being placed of record in

order to allow the auditor to make such changes in the tax rolls of his office as may be necessary;

4. Any deed conveying to the state, or to any political subdivision or municipal corporation thereof, any right-of-way for use as a public street, alley, or highway.

Approved March 1, 1955.

CHAPTER 115

S. B. No. 125
(Solberg and Duffy)

COUNTY CORONERS

AN ACT

To provide for the establishment of the office of county coroner, the duties thereof, the operation of the county coroner system, and repealing subsection 9 of section 11-1002 and chapter 11-19 of the North Dakota Revised Code of 1943, as amended.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Definition.) The following words and phrases, when used in this chapter, shall, for the purpose of this chapter have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning:

1. "Autopsy" shall mean the dissection of a dead body for the purpose of inquiring into the cause of death.
2. "Municipality" shall include all cities, towns and villages organized under the laws of this state, but shall not include any other political subdivision.
3. "Physician" shall include physicians and surgeons licensed under the provisions of chapter 43-17 of the North Dakota Revised Code of 1943, as amended.
4. "Casualty" shall mean death arising from accidental or unusual means.

§ 2. County Coroner.) Each organized county, unless it has adopted one of the optional forms of county government provided by this Code, shall have the office of county coroner which said office shall be held by an officer chosen in the manner prescribed in this chapter.

§ 3. Appointment of Coroner, Term, Assistant.) The coroner shall be appointed by the board of county commissioners for a term of two years. If such office shall become vacant by death, resignation, expiration of the term of office, or otherwise, or when the coroner becomes permanently unable to perform the duties of his office, the county commissioners shall appoint a person with the qualifications as hereinafter set forth to fill such vacancy, who shall give and take the oath of office as prescribed for coroners. If the duly appointed, qualified and acting coroner is absent temporarily from the county, or when on duty with the armed services of the United States, or the state militia, or with the American Red Cross, or when unable to discharge the duties of his office for any other reason, such coroner may appoint a person with the qualifications of coroner to act in his absence, service or disability, upon taking the prescribed oath for coroners.

§ 4. Eligibility for Office.) No person shall be eligible for the office of county coroner except a physician who has been duly licensed to practice as such in this state for a period of not less than two years immediately preceding his appointment as such coroner, and who is in good standing in his profession.

§ 5. Appointment of Assistant.) The coroner may appoint in writing an assistant coroner or coroners who shall be licensed physicians of good standing in their profession and/or pathologists, who shall assist in doing autopsies and making such pathological and chemical examinations, and performing such other duties required and directed by the county coroner or recommended by the state's attorney.

§ 6. Persons Authorized to Act Where No Resident Physician.) In such counties in which no physician is residing, the duties of coroner as herein provided shall be performed by the sheriff. The sheriff shall call upon the nearest physician coroner or deputy coroner from an adjacent county to investigate the medical cause of death of all coroner cases within said county. Where, because of distance or adverse conditions, a physician coroner is not available, the sheriff shall have the closest practicing physician called in to investigate and certify as to the medical cause of death.

§ 7. Death to be Reported to Coroner by Physician or Persons Discovering Body.) It shall be the duty of any person who discovers the body or acquires the first knowledge of the death of any person and by any physician called or in attendance to such person who shall have died as a result of abortions criminally or self-induced, or other criminal or violent means, or by casualty, suicide, accidental deaths or

suddenly when in apparent good health in a suspicious or unusual manner, to immediately notify the office of coroner of the known facts concerning the time, place, manner, and circumstances of such death, and any other information which may be required pursuant to this Act. Any person who shall willfully touch, remove, or otherwise disturb the body of any such deceased person, or the clothing or any articles upon or near such body without authorization of the coroner or law enforcement officer present shall be guilty of a misdemeanor.

§ 8. Records of Coroner's Office.) It shall be the duty of the coroner to keep a full and complete record and to fill in the cause of death upon the death certificate in all cases coming under his jurisdiction. All records shall be kept in the office of the coroner, if the coroner maintains an office as coroner, and if no such office is so maintained, then in the office of the clerk of the district court of the county, and shall be properly indexed, stating the name, if known, of every deceased person, the place where the body was found, date of death, cause of death, and all other available information required by this Act. The report of the coroner, and the detailed findings of the autopsy, if one was performed, shall be attached to the report of every case. The coroner shall promptly deliver or cause to be delivered to the state's attorney of the county in which such death occurred, copies of all necessary records relating to every death in which, in the judgment of the coroner or state's attorney, further investigation may be deemed advisable. The sheriff of the county, the police of the municipality, or the state highway patrolman on duty in that county, or the constable, or marshal of the township or village in which the death occurred, may be requested to furnish more information or make further investigation when requested by the coroner or his deputy. The state's attorney may obtain from the office of the coroner, copies of records and such other information as he may deem necessary for further investigation. All records of said office of the coroner shall become and remain the property of the county, and shall be considered public records.

§ 9. State's Attorney May Subpoena Witnesses.) If the state's attorney of the county shall be notified by any officer or other persons, or be cognizant himself of any violation or criminal act causing such death, or in any manner connected therewith he may inquire into the facts of such violation or criminal act, and for such purpose he shall issue his subpoena for any person who he has reason to believe has any information or knowledge of such violation, to appear before him at a time and place designated in such subpoena, then and there to testify concerning any such violation. The subpoena shall

be directed to the sheriff or any constable of the county and shall be served and returned to the state's attorney in the same manner as subpoenas are served and returned in criminal cases. Each witness shall be sworn by the state's attorney to testify under oath, and to make true answer to all questions which may be propounded to him by such state's attorney touching any such violation or criminal act. The testimony of every witness shall be reduced to writing, and shall become a part of the coroner's files in such case. For all purposes in this section the state's attorney may:

1. Administer oaths or affirmations to all witnesses;
2. Apply to the district court for the punishment of any witness for contempt for or on account of any disobedience of a subpoena, a refusal to be sworn, or to answer as a witness, or a refusal to sign his testimony; and
3. Compel the attendance of witnesses by attachment in the manner and with the effect provided in the title Judicial Branch of Government. Any witness compelled to testify under the provisions of this section shall be entitled to counsel and all other constitutional rights.

§ 10. Dead Bodies To Be Held Pending Investigation.) All dead bodies in the custody of the coroner shall be held until such time as the coroner after consultation with the state's attorney or the police department of the municipality, or the state highway patrolmen on duty in that county, or the sheriff has reached a decision that it is not necessary to hold the dead body longer to enable him to decide on a diagnosis, giving a reasonable and true cause of death, or that the dead body is no longer necessary to assist any one of the above named officials in their duties, but no dead body shall be held longer than twelve hours from the time coroner was notified without embalming.

§ 11. Coroner May Perform Autopsy.) The coroner or his medical deputy, may, if he deems it necessary, take custody of the dead body. If, in the opinion of the sheriff and state's attorney, an autopsy is deemed necessary, such autopsy shall be performed by the coroner or his deputy coroner, or pathologist. A detailed description of the observations written during the progress of such autopsy and the conclusions drawn therefrom shall be filed in the office of the coroner.

§ 12. Coroner May Order Removal of Body.) Where the county does not provide a morgue or morgue facilities for the use of the coroner, the coroner may use existing hospital facilities. When post mortem is completed at county morgue facilities or existing hospital facilities, the coroner after getting

expressed order of the person lawfully entitled to the custody of the deceased person's remains as to the funeral home of their choice, shall order the remains released to such funeral home, or the coroner after getting the expressed order of the person lawfully entitled to the custody of the deceased person's remains, as to the funeral home of their choice, may order the remains removed to such funeral home and the necessary post mortem conducted there.

§ 13. Cause of Death, Determination.) The cause of death, the manner and mode in which the death occurred, as delivered by the coroner and incorporated in the coroner's verdict shall be incorporated in the death certificate filed with the registrar of vital statistics of this state.

§ 14. Disinterment of Dead Bodies.) Whenever in the opinion of the state's attorney and either the sheriff or coroner, it is deemed necessary, the state's attorney or coroner shall have authority to order the disinterment of any dead body within their county and to authorize the removal of such body under the supervision of the coroner for purpose of examination and autopsy.

§ 15. Notice of Next of Kin, Disposition of Personal Belongings; Disposition of Body Where Next of Kin Cannot Be Found.) The coroner having taken charge of the case, shall notify relatives or friends of the deceased person, if known, as soon as possible by telephone, telegram, or otherwise, giving details of the death and disposition of the deceased person. If the relatives or friends of such deceased are unknown, the coroner shall dispose of the personal effects and body in the following manner:

1. Disposal of personal effects.
 - a. After using such clothing as may be necessary in the burial of the body the remaining personal effects of the deceased shall be turned over to the public administrator for disposition of such personal property in accordance with the laws, regulations and policies governing the office of the public administrator.
2. Disposal of body.
 - a. The coroner shall dispose of the remains,
 - (1) In accordance with the provisions of section 23-0614 of the North Dakota Revised Code of 1943, as amended;
 - or
 - (2) To be buried in accordance with the laws governing the burial of indigent persons within this state.

§ 16. Coroner's Fees Paid Out of County Treasury; Fees To Be Charged by Coroner; Duty of County Auditor.) The fees and mileage allowed to the coroner shall be paid out of the county treasury and the coroner's bill shall be presented to the county auditor and shall be paid upon approval and order of the board of county commissioners.

§ 17. Application.) The provisions of this Act shall apply to every county in this state having a population of eight thousand or more according to the last preceding official federal census, and the provisions of chapter 11-19 and section 11-1002 of the North Dakota Revised Code of 1943, as amended, shall not be applicable to such counties. The provisions of this Act shall not apply to counties having a population of less than eight thousand according to the last preceding official federal census and such counties shall be governed by the provisions of chapter 11-19 and section 11-1002 of the North Dakota Revised Code of 1943, as amended.

Approved March 9, 1955.

CHAPTER 116

S. B. No. 229
(Judiciary Committee)

COUNTY AUDITOR FEES

AN ACT

Relating to the duties of the county auditor and to provide for the collection of fees commensurate with costs for services rendered to private individuals, firms or corporations by county auditors and for the disposition of such fees.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Duties of County Auditor In Rendering Services To Private Individuals, Firms or Corporations; Fees To Be Charged; Disposition of Fees; Records To Be Kept.) It shall not be the duty of any county auditor to compile statistical information for, or furnish copies of records to, private individuals, firms or corporations, other than that required of him by section 11-1315 of the North Dakota Revised Code of 1943. At his own discretion he may compile statistical information for, or furnish copies of records to, private individuals, firms or corporations upon payment of a suitable charge which shall be commensurate with costs to the county of providing

such services. Such fee shall be a minimum of twenty-five cents and shall not exceed the sum of one dollar per hour for time consumed in compiling such statistical information or preparing such copies of records, to be remitted each month to the county treasurer for credit to the county general fund. The county auditor shall keep a complete record of fees collected under this Act.

Approved March 9, 1955.

CHAPTER 117

S. B. No. 173
(Holand)

DESTRUCTION OF COURT RECORDS

AN ACT

Authorizing clerks of court to destroy certain records.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Clerk of Court To Destroy Certain Records.) The clerks of the district courts and of county courts having increased jurisdiction are hereby authorized to remove from the files in their offices, and to destroy all files in civil actions in such court in which judgment was entered more than thirty years prior to the passage of this Act, or whenever the judgment in such civil action shall have been entered for more than thirty years. The clerk of any court of record may destroy shorthand notes that are on file in his office when such shorthand notes have been transcribed into any public record for five years or more. Such clerk may also destroy exhibits in any case which have been in his custody for thirty years or more.

§ 2. Record Made of Files Destroyed.) At the time of destroying such files, shorthand notes or exhibits the clerk of court shall make a record upon the margin or elsewhere upon the entry in the register of actions, or the docket of such judgment, indicating the removal and destruction of such file, shorthand notes or exhibits and the date thereof.

§ 3. Certain Files Not To Be Destroyed.) None of the files shall ever be destroyed in any probate proceeding or in any action for divorce, legitimization, adoption, change of name, or which otherwise affects the status of any person or persons,

or in any action to determine title or interest in real property, or to quiet title therein, or to establish or foreclose a lien thereon, or for the partition thereof, or which in any way affects the title to real property either by adjudication or by the execution of a judgment.

Approved March 9, 1955.

CHAPTER 118

H. B. No. 611
(Rose and Lindberg)

MEMORIALS, COST OF CONSTRUCTION AND MAINTENANCE

AN ACT

To amend and reenact section 11-3201 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to World War memorials; providing for maintenance of such memorials, authorizing agreements with public or private nonprofit agencies or corporations for such purpose, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 11-3201 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-3201. County Commissioners Authorized To Erect A Memorial or Memorials or Other Suitable Recognition; To Make Levy.) The board of county commissioners of any county in this state of North Dakota is hereby authorized to erect a memorial or memorials, or other suitable recognition in commemoration of the people of the county who rendered services, or who lost their lives in the service of their country during World War I and World War II or during the Korean hostilities, or solely during World War II, and may for such purpose use funds out of the general fund of the county if there is sufficient money in said fund, or use funds heretofore raised by tax levy for such memorial or memorials, and may levy a tax not in excess of four mills on the dollar in any one year upon the assessed valuation of all property in the county, provided such levy shall be made not later than December 31, 1956, and shall terminate not later than December 31, 1959, which levy shall be in addition to and not restricted by the levy limitations prescribed by law, or may use funds for that purpose donated to the county for that purpose, or may use

for such purpose funds out of the general fund of such county if there is sufficient money in said fund in conjunction with the funds so donated or obtained by such levy and tax, and the proceeds of such levy, tax, and donations, together with the amount taken out of the general fund, shall be used solely for the purpose of erecting such memorial, or memorials, or other suitable recognition. Nothing herein contained shall be construed to prohibit said board from expending any additional moneys derived from sources other than taxation. Such memorial, or memorials, or other suitable recognition shall be erected within the county at a place determined upon by such board and when erected, shall be properly and permanently maintained. The board may provide for such maintenance or erection by necessary expenditures from the general fund of the county or from funds donated to the county therefor or from either or both such funds, or may enter into a written agreement with any public or private nonprofit agency or corporation for the assumption of part or all of such responsibility by such agency or corporation. Pursuant to such agreement, the county may acquire or divest itself of any title to or jurisdiction over such memorial or other suitable recognition.

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1955.

CHAPTER 119

S. B. No. 73
(Livingston and Day)

COUNTY ZONING

AN ACT

Relating to county zoning regulations, and empowering counties to establish zoning districts, to impose regulations and restrictions within such districts, and to establish county planning commissions to secure the orderly development of the county, for the purpose of promoting health, safety, morals and the general public welfare, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. County Power To Regulate Property.) For the purpose of promoting health, safety, morals, public convenience, general prosperity and public welfare, the board of county

commissioners of any county is hereby empowered to regulate and restrict within the county, subject to section 20 of this Act, the location and the use of buildings and structures and the use, condition of use or occupancy of lands for residence, recreation, and other purposes.

§ 2. Board of County Commissioners To Designate Districts.) For any or all of the purposes designated in section 1, the board of county commissioners may by resolution divide all or any parts of the county, subject to section 20 of this Act, into districts of such number, shape, and area as may be deemed necessary, and may likewise enact suitable regulations to carry out the purposes of this Act. These regulations shall be uniform in each district, but the regulations in one district may differ from those in other districts. No regulation or restriction, however, shall prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming. The provisions of this Act, shall not be construed to include any power relating to the establishment, repair and maintenance of highways or roads.

§ 3. Object of Regulations.) These regulations shall be made in accordance with a comprehensive plan and designed for any or all of the following purposes:

1. To protect and guide the development of non-urban areas;
2. To secure safety from fire, flood, and other dangers;
3. To regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings and structures, the height, number of stories, and size of buildings and structures, the percentage of lot that may be occupied, the size of courts, yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes;
4. To lessen governmental expenditures;
5. To conserve and develop natural resources.

These regulations shall be made with a reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses.

§ 4. County Planning Commissions Authorized: Membership.) The board of county commissioners of any county desiring to avail itself of the powers conferred by this Act, shall establish, by resolution, a county planning commission to recommend the boundaries of the various county zoning districts and appropriate regulations and restrictions to be

established therein. Membership of such commission shall be composed of nine members, two of whom shall be appointed from the board of county commissioners, and two from the governing body of the municipality designated as the county seat of the county to serve for their respective terms of elective office. The remaining five members shall be appointed from the county at large. When appointments to said commission are first made, three members-at-large shall be appointed for a two year term and two members-at-large for a four year term, after which all subsequent appointments for members-at-large shall be for a four year term. Appointments to fill vacancies shall be for the unexpired portion of the term. All appointments to the county planning commission shall be made by the board of county commissioners.

§ 5. Meetings: Officers.) The commission shall meet within thirty days after its appointment and elect a chairman and other necessary officers from its membership. The commission may adopt rules and bylaws not inconsistent with the provisions of this Act. A majority of the members of the commission shall constitute a quorum. Members of the commission shall serve without compensation. The county auditor shall serve as secretary to the commission and shall keep all of the records and accounts of the commission.

§ 6. Investigations.) The county planning commission in conjunction with the township boards of the affected areas shall investigate and determine the necessity of establishing districts and prescribing regulations therefor, as herein provided; and, for that purpose, shall consult with residents of affected areas, and with federal, state, and other agencies concerned. State, county, township, city, and village officials, departments, or agencies are hereby required to make available, upon request of the county planning commission, such pertinent information as they may possess, to render technical assistance, and to cooperate in assembling and compiling pertinent information.

§ 7. County Planning Commission To Prepare Plan.) After investigation, as herein provided, the county planning commission shall prepare a proposed resolution to be submitted to the board of county commissioners establishing districts and prescribing regulations therefor, as herein provided, which shall be filed in the office of the county auditor.

§ 8. Hearings.) After the filing of the proposed resolution, the county planning commission shall hold a public hearing thereon, at which the proposed resolution shall be submitted for discussion, and parties in interest and citizens shall have an opportunity to be heard. Notice of the time, place, and

purpose of the hearing shall be published once each week for three consecutive weeks in the official newspaper of the county, and in such other newspapers published in the county as the county planning commission may deem necessary.

§ 9. Publication of Resolutions.) Following the public hearing, the board of county commissioners may adopt the proposed resolutions, with such changes as it may deem advisable. Forthwith after the adoption of any such resolution, the county auditor shall cause the same to be published for three successive weeks in the official newspaper of the county and in such other newspapers published in the county as the board of county commissioners may deem necessary. Proof of such publication shall be filed in the office of the county auditor and thereupon the resolution shall take effect. Any such resolution may, from time to time, be amended or repealed by the board of county commissioners upon like proceedings as in case of the adoption of a resolution. Upon adoption of any resolution hereunder, the county auditor shall file a certified copy thereof with the register of deeds.

§ 10. Separate Hearings.) Any person aggrieved by any provision of a resolution adopted hereunder, or any amendment thereto may, within sixty days after the taking effect of such provision, petition for a separate hearing thereon before the board of county commissioners. The petition shall be in writing and shall specify in detail the ground of the objections. The petition shall be filed with the county auditor. A hearing thereon shall be held by the board no sooner than ten days, nor longer than forty days, after the filing of the petition with the county auditor, who shall notify the petitioner of the time and place of the hearing. At this hearing the board of county commissioners shall consider the matter complained of and shall notify the petitioner, by registered mail, what action, if any, it proposes to take thereon. The provisions of this section shall not operate to curtail or exclude the exercise of any other rights or powers of the board of county commissioners or any citizen.

§ 11. May Adjust Enforcement.) The board of county commissioners is authorized to adjust the application or enforcement of any provision of a resolution hereunder in any specific case where a literal enforcement of such provision would result in great practical difficulties, unnecessary hardship, or injustice, so as to avoid such consequences, provided such action shall not be contrary to the public interest or the general purposes hereof.

§ 12. Appeals To District Court.) Any person, or persons, jointly or severally, aggrieved by a decision of the board of

county commissioners under this Act, may appeal to the district court in the manner provided in chapter 11-11 of the North Dakota Revised Code of 1943, as amended.

§ 13. Not To Affect Use.) The lawful use or occupation of land or premises existing at the time of the adoption of a resolution hereunder may be continued, although such use or occupation does not conform to the provisions thereof, but if such nonconforming use or occupancy is discontinued for a period of more than two years, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. If the state acquires title to any land or premises, all further use or occupancy thereof shall be a conforming use or occupancy.

§ 14. Nonconforming Uses Regulated.) The board of county commissioners, may, by resolutions, as herein provided, prescribe such reasonable regulations, not contrary to law, as it deems desirable or necessary to regulate and control nonconforming uses and occupancies.

§ 15. Board of County Commissioners To Make Complete List.) Immediately after the adoption of any zoning resolution, the board of county commissioners shall prepare a complete list of all nonconforming uses and occupancies existing at the time of the adoption of the resolution. This list shall contain the names of the owner or owners, and any occupant other than the owner, the legal description or descriptions of the land, and the nature and extent of the nonconforming use. Copies of these lists shall be filed in the office of the register of deeds and of the county auditor and shall be corrected, from time to time, as the board of county commissioners may prescribe. Immediately after the filing of this list, the county auditor shall furnish each township assessor, a record of nonconforming uses or occupancies existing within his assessment district. At the time of each assessment thereafter each assessor shall prepare a list of all nonconforming uses or occupancies, which list shall be given to the board of county commissioners. The board of county commissioners shall thereupon amend the previous list and file a certified copy of the same in the office of the register of deeds of the county.

§ 16. Enforcement.) The board of county commissioners shall provide for the enforcement of this chapter and of resolutions and regulations made thereunder, and may impose enforcement duties on any officer, department, agency, or employee of the county.

§ 17. Violation of Zoning Regulations and Restrictions: Remedies.) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or

if any building, structure, or land is used in violation of this Act, the proper county authorities or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceedings:

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
2. To restrain, correct, or abate such violations;
3. To prevent the occupancy of the building, structure, or land; or
4. To prevent any illegal act, conduct, business, or use in or about such premises.

§ 18. Board of County Commissioners Authorized To Issue Permits: Appropriate Money.) The board of county commissioners is empowered to authorize and provide for the issuance of permits as a prerequisite to construction, erection, reconstruction, alteration, repair or enlargement of any building or structure otherwise subject to the provisions of this Act, and may establish and collect reasonable fees therefor. The fees so collected shall be credited to the general fund of the county. The board of county commissioners is further empowered to appropriate, out of the general funds of the county, such moneys as may be necessary for the purposes of this Act.

§ 19. Joint Planning Commission May Be Established.) Where the area to be regulated and restricted is situated in two or more counties a joint planning commission may be established. Membership of such a joint planning commission shall consist of five members from each county planning commission to be appointed by the chairman of the respective county planning commissions. Each joint commission shall make a preliminary report and hold public hearings thereon as is provided in the case of county planning commissions before submitting its final report and recommendations to the respective county planning commissions of each county concerned.

§ 20. Township Zoning Not Affected: Townships and Municipalities May Relinquish Powers.) The provisions of this Act shall in no way prevent townships from making regulations as provided in sections 58-0311 to 58-0315, inclusive, of the 1953 Supplement to the North Dakota Revised Code of 1943, but such townships may relinquish their power to enact zoning regulations to the county by resolution of the board of township supervisors. The provisions of this Act shall not be construed to affect any property, real or personal,

located within the limits of any incorporated municipality of this state, except that any such municipality by resolution of its governing body may relinquish to the county its power to enact zoning regulations under chapter 40-47 of the North Dakota Revised Code of 1943, as amended, in which case such property shall be subject to the provisions of this Act.

§ 21. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 9, 1955.