

**Sixty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1293  
(Representatives Pyle, Nathe, Roers Jones, Schreiber-Beck, Warrey)  
(Senators Cleary, Dever, Lee, Sorvaag)

AN ACT to amend and reenact sections 40-04.1-01, 40-04.1-05, 40-08-06, 40-08-10, 40-09-04, 40-09-09, 40-14-03, 40-15-03, 40-49-05, 40-49-07, and 40-49-08 of the North Dakota Century Code, relating to election of city commissioners, city council members, and park district commissioners.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 40-04.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**40-04.1-01. City council - Membership - Terms.**

The governing body of a city operating under the modern council form of government is the city council, which is composed of not less than four members, one of whom is the mayor, all elected at large or by wards. Candidates for the council shall run for either mayor or council member but not both at the same time. The terms of members of the council ~~shall be~~ four years, or commencing on the first of July of the year in which the member was elected and until their successors are elected and qualified. However, the council shall establish by ordinance a procedure whereby one-half of all council members, as nearly as is practicable, are elected biennially. The number of council members may be increased or decreased pursuant to section 40-06-09.

**SECTION 2. AMENDMENT.** Section 40-04.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**40-04.1-05. Meetings - Regular, special, and for organization.**

The city council shall hold its regular meetings at least once a month and may prescribe by ordinance the manner in which special meetings may be called. The city council shall establish by resolution or ordinance the date of its regular meetings. The ~~first~~ meeting for the organization of the city council must be held on the fourth Tuesday in June in conjunction with the first meeting in July of each even-numbered year.

**SECTION 3. AMENDMENT.** Section 40-08-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-08-06. Term of office of council members - Staggered terms provided for in cities where other than ten council members elected.**

Council members shall hold office for four years and until their successors are elected and qualified. Terms of council members must be arranged so that one-half of the council members in any city, as nearly as practicable, are elected in any one election. When a city first adopts the council form of government or changes the number of council members, or when a city that has adopted the commission system of government returns to the city council form of government as provided by section 40-04-08, the alternation of the terms of the council members must be perfected as follows: of the council members elected in each ward, the one receiving the greater number of votes shall serve until the ~~fourth Tuesday in June~~ first day of July following the second succeeding biennial election and the one receiving the lesser number of votes shall serve until the ~~fourth Tuesday in June~~ first day of July following the biennial election succeeding the council member's election; if the city is not divided into wards, the one-half of the council members elected in the entire city receiving the greater number of votes shall serve until the ~~fourth Tuesday in June~~ first day of July following the second succeeding

biennial election and the one-half of the council members elected in the entire city receiving the lesser number of votes shall serve until the ~~fourth Tuesday in June~~first day of July following the biennial election succeeding their election. Whenever, for any reason, vacancies exist on the council which require an unexpired term to be filled by election, the unexpired term must be designated on the ballot separate from any other regular term or terms that may also appear on the ballot. Candidates seeking nomination to an unexpired term are required to indicate whether or not they are seeking a regular term of office or an unexpired term of office on their nominating petitions as set forth in section 40-21-07.

**SECTION 4. AMENDMENT.** Section 40-08-10 of the North Dakota Century Code is amended and reenacted as follows:

**40-08-10. Meetings of council - Regular, special, and for organization.**

The city council shall hold its regular meetings at least once a month on a date certain established by resolution or ordinance of the council, and may prescribe by ordinance the manner in which special meetings may be called as well as the establishment of any additional regular meetings desired. If a regular meeting falls upon a holiday, the meeting must be held upon the next business day with the same effect as if conducted upon the day appointed. All regular and special meetings must be held at a time and place designated by the city council. The ~~first~~ meeting for the organization of the city council must be held ~~on the fourth in conjunction with the first Tuesday~~meeting in June~~July~~ of each even-numbered year.

**SECTION 5. AMENDMENT.** Section 40-09-04 of the North Dakota Century Code is amended and reenacted as follows:

**40-09-04. Commissioners - Terms - Resignations.**

Each commissioner and the president of the board of city commissioners shall hold office for four years commencing on the ~~fourth Tuesday in June~~first day of July of the year in which the officer was elected and until a successor has been duly elected and qualified. The commission shall establish by ordinance a procedure whereby one-half of all commissioners, as nearly as practicable, are elected biennially. The president or any other member of the board may resign from office by filing a written resignation with the city auditor, who shall submit the resignation to the board of city commissioners at its next regular meeting or at a special meeting called for consideration of the resignation. The resignation is effective upon its acceptance by the board.

**SECTION 6. AMENDMENT.** Section 40-09-09 of the North Dakota Century Code is amended and reenacted as follows:

**40-09-09. Vice president and acting president of board - Powers to act.**

At the first meeting of the board after ~~each biennial election~~the newly elected commissioners take office, one of its own members ~~shall~~must be elected vice president. The vice president shall perform all the duties of the office of president in the absence or disability of the president to act. In the absence or disability to act of both the president and the vice president, the board shall elect one of its members as acting president, who ~~shall have~~has all the powers and ~~perform~~performs all the duties of the president during the absence or disability.

**SECTION 7. AMENDMENT.** Section 40-14-03 of the North Dakota Century Code is amended and reenacted as follows:

**40-14-03. When term of elective officer begins.**

Under the city council form of government, the term of each elective officer commences on the ~~fourth Tuesday of June~~first day of July of the year in which the officer is elected.

**SECTION 8. AMENDMENT.** Section 40-15-03 of the North Dakota Century Code is amended and reenacted as follows:

**40-15-03. When term of elective officers begins.**

The term of each elective officer in a city operating under the commission system of government commences on the ~~fourth Tuesday in June~~ first day of July of the year in which the officer is elected.

**SECTION 9. AMENDMENT.** Section 40-49-05 of the North Dakota Century Code is amended and reenacted as follows:

**40-49-05. Board of park commissioners in city - Terms.**

1. The powers of a park district in a city must be exercised by a board of park commissioners consisting of five or three members, as determined by the governing body of the city in creating the park district or pursuant to sections 40-49-07.1 and 40-49-07.2. Except as provided in subsection 2, each commissioner shall hold office for a term of four years and until a successor is elected and qualified. The term of office of a commissioner begins ~~two weeks after the regular biennial city election at which the commissioner is elected~~ on the first day of July.
2. Members of a newly created five-member board shall hold office as follows:
  - a. Three members until ~~two weeks~~ the first day of July after the next regular biennial city election.
  - b. Two members until two years from the time mentioned in subdivision a.
3. Members of boards of park commissioners which existed before July 1, 1987, shall hold office on the staggered basis in effect on June 30, 1986.
4. Members of a newly created three-member board shall hold office as follows:
  - a. Two members until ~~two weeks~~ the first day of July after the next regular biennial city election.
  - b. One member until ~~two years~~ the first day of July after the next regular biennial city election.

**SECTION 10. AMENDMENT.** Section 40-49-07 of the North Dakota Century Code is amended and reenacted as follows:

**40-49-07. Election and qualification of members of board of park commissioners.**

The members of the board of park commissioners shall possess the qualifications of electors of the city and must be elected by the qualified electors of the park district. The members of the first board may be elected at any regular city election or at a special election called for that purpose by the governing body of the city. Thereafter, members of the board must be elected at the regular city elections. Such members shall qualify ~~within two weeks after~~ by the first day of July following their election by taking and filing with the city auditor the oath prescribed for civil officers. The board of park commissioners may enter into an agreement with the governing body of the city concerning sharing of election personnel, printing of election materials, and apportioning of election expenses.

**SECTION 11. AMENDMENT.** Section 40-49-08 of the North Dakota Century Code is amended and reenacted as follows:

**40-49-08. Organization of board of park commissioners - City auditor to act as treasurer of board or board to appoint clerk.**

~~Two weeks after their election~~ At the first meeting of the board of park commissioners in July after the regular biennial city election, the members of the board of park commissioners shall organize the board by selecting a president and a vice president. The city auditor shall be ex officio treasurer of the

park district or the board may appoint a clerk and such other employees as shall be deemed needed for the efficient conduct of the district's business and shall fix their compensation. The clerk shall take the oath prescribed for civil officers and shall obtain such bond as may be required by the board.

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Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1293.

House Vote:      Yeas 91              Nays 0              Absent 3

Senate Vote:     Yeas 46              Nays 0              Absent 1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2023.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2023,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State