CHAPTER 1-02
RULES OF INTERPRETATION

1-02-01. Rule of construction of code.

The rule of the common law that statutes in derogation thereof are to be construed strictly has no application to this code. The code establishes the law of this state respecting the subjects to which it relates, and its provisions and all proceedings under it are to be construed liberally, with a view to effecting its objects and to promoting justice.

1-02-02. Words to be understood in their ordinary sense.

Words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears, but any words explained in this code are to be understood as thus explained.

1-02-03. Language - How construed.

Words and phrases must be construed according to the context and the rules of grammar and the approved usage of the language. Technical words and phrases and such others as have acquired a peculiar and appropriate meaning in law, or as are defined by statute, must be construed according to such peculiar and appropriate meaning or definition.

1-02-03.1. Person-first language.

The provisions of this code, unless the context otherwise requires, must be construed in person-first language and any new enactments of this code must be written in person-first language.

1-02-04. Conflict in expression of numbers.

Whenever there is a conflict between a number expressed in a statute both by figures and written words, the latter shall prevail unless such words obviously are contrary to the legislative intent.

1-02-05. Construction of unambiguous statute.

When the wording of a statute is clear and free of all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.

1-02-06. Clerical and typographical errors.

Clerical and typographical errors shall be disregarded when the meaning of the legislative assembly is clear.

1-02-06.1. Journal entry rule - Presumption of validity of legislation.

A bill or resolution passed by the senate and the house of representatives of the legislative assembly as evidenced by the journals of the senate and house is presumed to be the bill or resolution that is signed by the presiding officers of the senate and house, presented to the governor, and filed with the secretary of state. If there is a difference between versions of a bill, the legislative council shall direct the publisher of the code to publish the law according to this section. The law as published must be presumed valid until determined otherwise by an appropriate court.

1-02-07. Particular controls general.

Whenever a general provision in a statute is in conflict with a special provision in the same or in another statute, the two must be construed, if possible, so that effect may be given to both provisions, but if the conflict between the two provisions is irreconcilable the special provision must prevail and must be construed as an exception to the general provision, unless the general provision is enacted later and it is the manifest legislative intent that such general provision shall prevail.

1-02-08. Conflicting provisions found in the same statute.

Except as otherwise provided in section 1-02-07, whenever, in the same statute, several clauses are irreconcilable, the clause last in order of date or position shall prevail.

1-02-09. Irreconcilable statutes or constitutional amendments passed during the same session.

1. Whenever the provisions of two or more statutes passed during the same session of the legislative assembly are irreconcilable, the statute latest in date of final passage by the legislative assembly, irrespective of the date on which it was approved or allowed to become law by the governor or of its effective date, prevails from the time it becomes effective. However, whenever a provision of one or more statutes repeals a law and a provision of one or more statutes passed later during the same session of the legislative assembly amends that law, the provision amending the law prevails from the time it becomes effective only if:
   a. The legislative council determines the intent of the legislative assembly was to retain the amended law as an independent law; or
   b. The provision amending the law has an earlier effective date than the effective date of the provision repealing the law, in which case the amendment prevails from its effective date until the effective date of the provision repealing the law.
2. Whenever two or more concurrent resolutions, adopted during the same session of the legislative assembly, propose to create or amend, or amend and repeal, the same section of the Constitution of North Dakota, the secretary of state, in consultation with the attorney general, shall determine if the proposals are irreconcilable, and if they are irreconcilable, the resolution last adopted by the legislative assembly, as determined by the legislative council, must be placed on the ballot for the appropriate election for approval or disapproval by the electorate.

1-02-09.1. Multiple amendments to the same provision, one without reference to the other.

If amendments to the same statute are enacted at the same or different sessions of the legislative assembly, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

1-02-09.2. Reconciliation of conflicting proposed amendments to the constitution.

If two or more concurrent resolutions propose to amend or create the same section of the Constitution of North Dakota, and the proposed sections are reconcilable, the legislative council shall prepare a reconciled text and submit it to the secretary of state for inclusion in the appropriate ballot.

1-02-10. Code not retroactive unless so declared.

No part of this code is retroactive unless it is expressly declared to be so.

1-02-11. Source note not part of statute.

No source note may be deemed a declaration by the legislative assembly as to the purpose, scope, or effect of any section to which such source note or revisor's note relates.

1-02-12. Caption, cross-reference note, and source note.

No caption, source note, or cross-reference note, whether designating an entire title, chapter, section, subsection, or subdivision, constitutes any part of a statute. A caption may not be used to determine legislative intent or the legislative history for any statute. An effective date or expiration date note immediately following a caption is not a part of the caption and is a part of the statute.

1-02-13. Uniform laws interpreted to effect purpose.

Any provision in this code which is a part of a uniform statute must be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

1-02-14. Majority power.

Words giving a joint authority to three or more public officers or other persons must be construed as giving such authority to a majority of them, unless it appears otherwise in the act giving the authority.

1-02-15. Computation of time.

The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last is a holiday, and then it also is excluded. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

1-02-16. Repeal does not revive act previously repealed.

Whenever any act of the legislative assembly which repealed a former act is repealed, such former act is not revived by such repeal.

1-02-17. Repeal - Effect.

The repeal of any statute by the legislative assembly, or by the people through an initiated law, does not have the effect of releasing or extinguishing any penalty, fine, liability, or forfeiture incurred under such statute, but as to cases tried before, or subsequent to, the repeal of such statute, it has the effect of extinguishing any jail or prison sentence that may be, or that has been, imposed by reason of said law, unless the repealing act provides expressly that the penalties of imprisonment shall remain in force as to crimes committed in violation of such law prior to its repeal. In other respects, such act shall remain in force only for the purpose of the enforcement of such fine, penalty, or forfeiture.

1-02-18. Pending actions or proceedings not affected by code.

No action or proceeding commenced before this code takes effect, and no right accrued, is affected by its provisions, but the proceedings therein must conform to the requirements of this code as far as applicable.

1-02-19. Effect upon former laws - Repeals.

No statute, law, or rule is continued in force because it is consistent with the provisions of this code on the same subject, but in all cases provided for by this code all statutes, laws, and rules heretofore in force in the state, whether consistent or not with the provisions of this code, unless expressly continued in force by it, are all repealed and abrogated. This repeal or abrogation does not revive any former law heretofore repealed, nor does it affect any right already existing or accrued or any action or proceeding already taken, except as in this code provided, nor does it affect any private or local statute not expressly repealed, nor any outstanding appropriation.

1-02-20. Severability.

In the event that any clause, sentence, paragraph, chapter, or other part of any title, is adjudged by any court of competent or final jurisdiction to be invalid, such judgment does not affect, impair, nor invalidate any other clause, sentence, paragraph, chapter, section, or part of such title, but is confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment has been rendered.

1-02-21. Office held under provisions repealed by this code to be retained - Exceptions.

Unless a different intention plainly appears, a public officer who is in office when this code takes effect shall remain in office until the expiration of the term for which the officer was elected or appointed unless the officer is removed prior to the expiration of the term as provided by law.

1-02-22. Effect when office abolished.

When any office is abolished by the repeal of any legislative act or provision, and such act or provision is not in substance re-enacted or continued in the code, such office ceases at the time the code takes effect.

1-02-23. Limitations - How reckoned.

When a limitation or period of time prescribed in any existing statute for acquiring a right or barring a remedy, or for any other purpose, has begun to run before this code goes into effect, and the same or any limitation of time is prescribed in this code, the time which already has run is deemed part of the time prescribed as such limitation by this code.

1-02-24. Time for performance of act - How computed.

Unless otherwise specially provided, every period of time prescribed in any statute existing prior to the taking effect of this code with reference to the commencement of a proceeding or the performance of any other act, must be computed from the date of the event at which such period begins although such event happened before the taking effect of this revision. This section may not be construed so as to conflict in any manner with the provisions of section 1-02-23.

1-02-25. Continuations of existing statutes.

For purposes of historical reference and as an aid to interpretation, the provisions of this code, so far as they are substantially the same as previously existing statutes, must be construed as continuations thereof, and not as new enactments except that a revised version of such statutes contained in this code supersedes all previous statutes.

1-02-26. Effect of revision upon initiated measures.

Any provision of this code which was enacted as an initiated measure, or as a part of such a measure, notwithstanding the revision, shall remain in effect as an initiated provision and is subject to amendment, re-enactment, or repeal only as provided by section 25 of the Constitution of North Dakota.

1-02-27. Conflicts adjusted.

If the provisions of any chapter or title conflict with or contravene the provisions of any other chapter or title, the provisions of each chapter or title must prevail as to all matters in question arising thereunder out of the same subject matter.

1-02-28. Benefit of provisions of law may be waived.

Except when it is declared otherwise, the provisions of this code in respect to the rights and obligations of parties to contracts are subordinate to the intention of the parties, when ascertained in the manner prescribed by the chapter on the interpretation of contracts. The benefit thereof may be waived by any party entitled thereto, unless such waiver would be against public policy.

1-02-29. Repeal of incorporating law does not dissolve existing corporation or limited liability company.

No existing corporation or limited liability company is dissolved on account of the repeal of any statute pursuant to which it was organized, nor may the powers specified in its charter, certificate, articles of incorporation, or articles of organization be impaired or limited thereby. No repeal impairs, annuls, diverts, or disturbs any vested rights, privileges, or powers actually

exercised and enjoyed in or by any corporation or limited liability company under such repealed laws.

1-02-30. Vested rights protected.

No provision contained in this code may be so construed as to impair any vested right or valid obligation existing when it takes effect.

1-02-31. Existing boundaries to remain after code takes effect.

The boundaries of every county, city, school district, and other local subdivision, shall remain the same as they were established prior to the taking effect of this code until they are changed in the manner provided in such code.

1-02-32. Existing ordinances and regulations to remain in force after code takes effect.

Every ordinance, bylaw, rule, and regulation adopted by any county, city, civil township, board, commission, or public officer, and in force when this code takes effect, if not inconsistent with the provisions of the code, shall remain in force until it is repealed or amended in the manner prescribed by law.

1-02-33. Statutes which shall be deemed subsequent to code.

Any statute other than this code, whether enacted at the 1961 session of the legislative assembly or thereafter, is deemed to have been enacted subsequently to the enactment of this code. If any such statute repeals, amends, or is inconsistent with any provision of this code, the provisions of such statute shall prevail.

1-02-33.1. Section 1-02-33 not applicable to laws enacted in 1943 session.

Repealed by omission from this code.

1-02-34. Pendency and transfer of actions and proceedings.

If at the time this code takes effect any action or proceeding properly commenced prior thereto is pending before any court, tribunal, board, commission, or public officer, and such court, tribunal, board, commission, or public officer is without jurisdiction of such action or proceeding under the provisions of this code, such action or proceeding nevertheless must be transferred, together with all the papers relating thereto, to the court, tribunal, board, commission, or public officer having jurisdiction thereof, with the same force and effect as if originally commenced before such court, tribunal, board, commission, or public officer.

1-02-35. Date of taking effect of code.

Repealed by S.L. 2021, ch. 356, § 2.

1-02-36. Registered or certified mail.

Wherever the term "registered mail" appears in the laws of the state of North Dakota it means "registered or certified mail".

1-02-37. Citations.

All amendments of and additions to the North Dakota Century Code appearing in pocket part supplements must be cited as sections of the North Dakota Century Code.

1-02-38. Intentions in the enactment of statutes.

In enacting a statute, it is presumed that:

1. Compliance with the constitutions of the state and of the United States is intended.
2. The entire statute is intended to be effective.
3. A just and reasonable result is intended.
4. A result feasible of execution is intended.
5. Public interest is favored over any private interest.

1-02-39. Aids in construction of ambiguous statutes.

If a statute is ambiguous, the court, in determining the intention of the legislation, may consider among other matters:

1. The object sought to be attained.
2. The circumstances under which the statute was enacted.
3. The legislative history.
4. The common law or former statutory provisions, including laws upon the same or similar subjects.
5. The consequences of a particular construction.
6. The administrative construction of the statute.
7. The preamble.

1-02-40. Statutory references.

A reference to any portion of a statute applies to all re-enactments, revisions, or amendments thereof.

1-02-41. References to a series.

If a statute refers to a series of numbers or letters, the first and the last numbers or letters are included.

1-02-42. Effective dates of legislation - Rules of construction.

In determining the effective date of any law enacted by the legislative assembly, a "measure" includes the entire contents of a legislative act, unless the legislative assembly specifically provides within the act that only a portion of the act is an emergency, appropriation, or tax measure. Unless a different date is specified in a measure, the measure takes effect on July first after its filing with the secretary of state if:

1. Any portion of the measure provides an appropriation for support and maintenance of state departments and institutions; or
2. Any portion of the measure:
   a. (1) Provides for an enforced contribution for public purposes which is not dependent upon the will or consent of the person taxed;
      (2) Imposes a fee for any purpose; or
      (3) Authorizes a public official or entity to determine the level of a fee for any purpose; and
   b. Changes any statutory factor that determines the amount of a taxpayer's liability for the contribution or fee, including a full or partial exemption or credit.