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Date issued: September 24, 1992
Requested by: Kenneth L. Dalsted
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- QUESTIONS PRESENTED -

I.

Whether the mayor under a modern council system of government has the power to veto ordinances or resolutions passed by the city council.

II.

Whether the provisions of N.D.C.C. ch. 40-08, relative to the governing body and executive officer in council cities, apply to the modern council system of government adopted pursuant to N.D.C.C. ch. 40-04.1.

- ATTORNEY GENERAL'S OPINION -

I.

It is my opinion that the mayor under a modern council system of government does not have the power to veto ordinances or resolutions passed by the city council.

II.

It is my further opinion that the provisions of N.D.C.C. ch. 40-08, relative to the governing body and executive officer in council cities, do not apply to the modern council system of government adopted pursuant to N.D.C.C. ch. 40-04.1.

- ANALYSES -

I.

"In North Dakota, a city may be organized under one of three systems of government: the commission system, the council

system, or the modern council system." 1992 N.D. Op. Att'y Gen. 36.

Under the council system of government, which is distinct and separate from the modern council system of government, "[t]he

mayor shall sign or veto each ordinance or resolution passed by the council." N.D.C.C. ' 40-08-24. In comparison, N.D.C.C. ch. 40-04.1, on the modern council system of government, does not specifically address the veto power of the mayor. However, it does state that "[t]he mayor shall preside at meetings of the council. . . . He shall continue to have all the rights and privileges as a member of the council." N.D.C.C. ' 40-04.1-06. Members of the council are not given the power to veto ordinances or resolutions. Based on the foregoing, it is my opinion that the mayor under a modern council system of government does not have the power to veto ordinances or resolutions passed by the city council. See also Letter from Chief Deputy VandeWalle to Representative Patrick Conmy (August 16, 1977).

II.

In 1992 N.D. Op. Att'y Gen. 36, I concluded that the provision in N.D.C.C. ch. 40-08 requiring the city council to publish a record of its proceedings in its official newspaper does not apply to cities with a modern council system of government because a similar provision was not included in N.D.C.C. ch. 40-04.1. In comparing N.D.C.C. ch. 40-04.1 on the modern council system of government to N.D.C.C. ch. 40-08 on the council system of government, I concluded:

N.D.C.C. ch. 40-04.1 and ch. 40-08 each contain sections for which analogous counterparts may be found in the other chapter. However, each of these two chapters also contain sections which have no analogous counterparts in the other chapter. . . .

The council system and the modern council system are distinct and separate systems of government. Unless the Legislature has specifically provided that the laws applicable to one system of government are also applicable to another system of government or the context requires references to one system to include another system, it is my opinion that the Legislature did not intend references to one system to include references to another.

1992 N.D. Op. Att'y Gen. 36, 37-38.

Consistent with my prior opinion, it is my further opinion that the provisions of N.D.C.C. ch. 40-08, relative to the governing body and executive officer in council cities, do not apply to the modern council system of government adopted pursuant to N.D.C.C. ch. 40-04.1.

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- EFFECT -

This opinion is issued pursuant to N.D.C.C. ' 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.

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Attorney General

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