

**LETTER OPINION  
93-L-242**

August 30, 1993

Mr. Wayne D. Goter  
Flasher City Attorney  
P.O. Box 1552  
Bismarck, ND 58502-1552

Dear Mr. Goter:

Thank you for your August 4, 1993, letter requesting an opinion on whether the city of Flasher is legally obligated to provide police services, either by retaining its own police force or contracting with Morton County for police services. You also ask whether property insurance rates may be increased for the residents of the city of Flasher if the city does not provide police services.

Whether a city is required to provide police services depends on the city's form of government. See eg. N.D.C.C. chs. 40-14 and 40-08 regarding cities under the council form of government.

I understand that the city of Flasher operates under the city commission form of government with a president acting as the executive officer. North Dakota Century Code (N.D.C.C.) ? 40-15-05 provides:

**40-15-05. Appointive officers in commission cities - Right to dispense with offices.** At the first meeting after the qualification of its members, or as soon thereafter as possible, the board of city commissioners shall appoint the following officers:

. . . .

8. A chief of police;

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9. One or more policemen;

. . . .

The board of city commissioners by a majority vote may dispense with any appointive office and provide that the duties thereof shall be performed by other officers or boards, by the board of city commissioners, or by a committee or committees thereof.

Thus, a city with a city commission form of government must either have a chief of police and policemen or provide that the duties of chief of police and the policeman be performed by "other officers or boards, by the board of city commissioners, or by a committee or committees thereof." N.D.C.C. ? 40-15-05. In addition, one of the members of the board of city commissioners must be designated as a police and fire commissioner. N.D.C.C. ? 40-09-12. Thus, it is my opinion that a city with a city commission form of government, like the city of Flasher, is legally obligated to provide police services.

Homeowners' insurance rates are regulated by the Insurance Commissioner pursuant to N.D.C.C. ch. 26.1-25. The rates may take into consideration the past and prospective loss experience of the company. If the particular insurance company's loss experience increases due to the city's not providing police services, the rates may increase. See N.D.C.C. ? 26.1-25-03.

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

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