

N.D.A.G. Letter to Alexander (March 7, 1986)

March 7, 1986

Mr. Robert E. Alexander
Beulah City Attorney
Hagen, Quast & Alexander
P.O. Box 249
Beulah, ND 58523

Dear Mr. Alexander:

Thank you for your letter of February 21, 1986, inquiring as to the comprehensiveness of extraterritorial zoning by a city pursuant to N.D.C.C. § 40-47-01.1.

According to your letter, Beulah has a population of less than 5,000 people. N.D.C.C. §40-47-01.1(1) provides that the governing body of a city with a population of less than 5,000, may extend the application of the city's zoning regulations to each quarter quarter section of unincorporated territory, the majority of which is located within one-half mile of the city limits. Prior to 1981, this particular statutory provision did not include the phrase "each quarter quarter section of . . . the majority of which is located within one-half mile of the city limits." The 1981 Legislative Assembly added these particular words so as to prevent the situation from occurring where one tract of land was being governed by the zoning jurisdictions of two or more units of government. 1981 N.D. Sess. Laws § 421.

In light of the 1981 legislative amendments and the reasons given behind the adoption of said amendments, it is our conclusion that a city of less 5,000 people may extend its zoning regulations to each quarter quarter section of unincorporated territory so long as the majority of each quarter quarter section is located within one-half mile of the city limits. We find no requirement that the city's zoning regulation must extend to each and every quarter quarter section which happens to satisfy this statutory condition. However, we are unable to find any authority for the city to separate tracts of land within each quarter quarter section.

Sincerely,

Nicholas J. Spaeth

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