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## CHAPTER TWELVE

### PUBLIC NUISANCES

#### ARTICLE 1 – Sanitary Nuisances

##### 12.0101 Residence – When Sewer and Water Required

It shall be unlawful for any person to use or occupy or permit to be used or occupied for residence purposes, any premises or building within the corporate limits of this City without first making or causing to be made proper connections with the City's sewer and water facilities and mains.

The term "proper connections" when used in this section shall be construed to mean connections with the water mains and sanitary sewers which are equipped and furnished with proper valves and fittings so as to enable such water connections to be used at all times. Sanitary toilets and drains and such equipment shall at all times be kept in repair so as to make them available for household use and in condition to be used at all seasons of the year.

##### 12.0102 Outhouses – Cesspools – A Nuisance

The use, construction, maintenance, building or erection of any outhouse, privy, vault or cesspool within this City is hereby declared to be a nuisance and a menace to public health, when in violation of Section 12.0101.

##### 12.0103 Outhouses – Cesspools – Exceptions

1. Private sewage system and private water supplies may be constructed to serve new buildings to be built in areas not included in Section 12.0101, providing such lot area complies with the requirements of any zoning requirements.
2. Private sewage systems and private water systems may be installed in existing buildings in areas not included in Section 12.0101.
3. Each private sewage system or private water supply hereafter altered or constructed shall conform to the State Health Department Standards.

##### 12.0104 Outhouses – Cesspools – Offensive Odors

It shall be unlawful for the owner or occupant of any lot or piece of ground within the corporate limits of this City to permit any private sewer system to emit any offensive odors or to become dangerous or injurious to public health or offensive to sense of smell of the people of the City. Any private sewer system emitting such odor is hereby declared to be a nuisance and a menace to the public health of the City.

##### 12.0105 Outhouses – Cesspools – Cleaning of

In the cleaning of private septic tanks and sewage systems the contents thereof shall be removed in containers fitted so as to prevent the escape of odors or materials therefrom and disposed of in a manner approved by the City health officer.

The pumping of a private sewage system on the surface of the ground or hauling contents thereof in such a manner as to allow the material to spill on the ground, street or public ways is hereby declared to be a public nuisance.

##### 12.0106 Dead Animals

Any person who owned or had possession or control of a dead animal prior to its death shall remove or cause the same to be removed within five (5) hours from the time the animal dies and have the same buried or disposed of

in some other sanitary way approved by the City health officer. Any dead animal remaining in any street, alley or other public place in this City, or in any private premises within this City, for more than five (5) hours after the animal shall have died, is hereby declared to be a nuisance. Any person allowing any animal which that person controlled or possessed, prior to its death, to remain in any street, alley or public place, or on any private premises within the City for more than five (5) hours after its death shall be guilty of a violation of this Article.

#### 12.0107 Water Pools – Putrid Substances

It shall be unlawful for the owner or occupant of any parcel of ground in this City to suffer or permit water or putrid substance whether animal or vegetable to accumulate or stand so as to cause an offensive odor to be emitted therefrom or to become injurious or dangerous to the health of the neighborhood. Any pool of water and any putrid substance permitted to become offensive or injurious to the public health are hereby declared to be a public nuisance.

### ARTICLE 2 – Smoke – Gases

#### 12.0201 Smoke, Dust, Ashes, Cinders, Gases – A Nuisance

The emission of dense smoke, ash, dust, cinders or noxious gases from any machine, contrivance or from the smoke stack or chimney of any building or premises in such quantities as to cause injury or detriment to any person or persons or to the public, or to endanger the comfort, health or safety of any person or persons, or in such manner as to cause or tend to cause damage or injury to property, is hereby declared to be a public nuisance.

#### 12.0202 Smoke, Dust, Ashes, Cinders, Gases – Prohibited

No person, persons, association or corporation shall cause, permit or allow the escape from any smoke stack or chimney into the open air, of such quantities of dense smoke, ash, dust, soot, cinders, acid or other fumes, dirt, or other material, or noxious gases, in such place or manner as to cause injury, detriment or nuisance to any person or persons, or to the public, or to endanger the comfort, health or safety to any such person or persons, or the public, or in such manner as to cause or have a natural tendency to cause injury or damage to business or property.

### ARTICLE 3 – Radio Interference and Noise Control

#### 12.0301 Radio Interference Prohibited

It shall be unlawful for any person knowingly to maintain, use, operate or cause to be operated within this City, any machine, device, appliance, equipment or apparatus of any kind whatsoever, the operation of which shall cause reasonably preventable electrical interference with radio reception within said municipal limits. The maintenance, use or operation within the City of any machine, device, appliance, equipment or apparatus of any kind so as to interfere with radio reception in violation hereof is hereby declared a public nuisance.

#### 12.0302 Loud, Disturbing, Unnecessary Noises – Prohibited

The making, creating or maintenance of loud, unnatural or unusual and disturbing noises are a detriment to public health, comfort, convenience, safety and welfare, and are hereby declared to be unlawful and a public nuisance. The following acts, among others, are declared to be prohibited noises in violation of this section, but such enumeration is not exclusive:

1. The sounding of horns or signaling devices on any motor vehicle or motorcycle on any street or public place except as a danger warning.
2. The using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated, and who are voluntary listeners thereto. The operations of any such set, instrument, phonograph, machine or device in such

a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.

3. The using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of advertising or attracting the attention of the public to any structure.
4. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 PM and 7:00 AM, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
5. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed indicating that a school, hospital, or court is in the vicinity.
6. A violation of this Section shall be an infraction.

#### ARTICLE 4 – Lot Clearing

##### 12.0401 Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Abandoned motor vehicle” means any motor vehicle, as defined in section 39-01-01 of the North Dakota Century Code, regardless of model years of age of the motor vehicle, that has remained for a period of 48 hours or more on public property illegally or lacking vital component parts, or has remained for a period of 48 hours or more on private property without the consent of the owner or occupant of such property or in an inoperable condition such that it has no substantial potential further use consistent with its usual functions unless it is kept in an enclosed garage or storage building. It also means a motor vehicle voluntarily surrendered by its owner to a person duly licensed under section 39-26-10 of the North Dakota Century Code. An antique automobile and other motor vehicles to include parts cars and special interest vehicles, may not be considered an abandoned motor vehicle within the meaning of this article. (Source: North Dakota Century Code section 39-26-02(1))
2. “Antique motor vehicle” means any motor vehicle, which is at least forty years old and has a current license pursuant to section 39-04-10.4 of the North Dakota Century Code.
3. “Building materials” includes, without limitation, lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.
4. “Collector” means the owner of one or more special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof for the person's own use in order to restore, preserve, and maintain a special interest vehicle or antique vehicle. (Source: North Dakota Century Code section 39-26-02(2))
5. “Department” means the city police department, the city street department, a state-licensed peace officer, or the state or county health department.
6. “Junk” includes, without limitation, parts of machinery or motor vehicles, tires, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal, or other castoff material of any kind, whether or not the same could be put to any reasonable use.

7. "Junk automobile" includes, without limitation, any motor vehicle, as defined in section 39-01-01 of the North Dakota Century Code, regardless of the age of the motor vehicle, which is not licensed for use upon the highways of the state for a period in excess of 30 days, and shall include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 30 days, provided that there is excepted from this definition unlicensed but operative vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.
8. "Parts car" means a motor vehicle generally in nonoperable condition which is owned by the collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle. (Source: North Dakota Century Code section 39-26-02(5))
9. "Special interest vehicle" means a motor vehicle which is at least twenty years old and which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists. (Source: North Dakota Century Code section 39-26-02(6))
10. Trash or rubbish includes any and all forms of debris not herein otherwise classified.
11. Vital component parts means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels. (Source: North Dakota Century Code section 39-26-02(8)).

#### 12.0402 Storage or Accumulation of Trash, Rubbish, Junk, Contrary to Public Health and Safety

It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned motor vehicles, building materials, and the maintenance of blighted structures upon private property within the city tends to result in blighted and deteriorated neighborhoods, the increase in criminal activity, the spread of vermin and disease, and is contrary to the public peace, health, safety and general welfare of the community. (Source: North Dakota Century Code section 39-26-01)

#### 12.0403 Unlawful to Store or Accumulate Trash, Rubbish, Junk

It shall be unlawful for any person to store, or permit the storage or accumulation of, trash, rubbish, junk, junk automobiles, or abandoned motor vehicles on any private property in the city except within a completely enclosed building, or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in second-hand goods or junk gatherer.

Such storage or accumulation of trash, rubbish, junk, junk automobiles, or abandoned vehicles on any private property in the city is hereby declared to be a nuisance and shall be abated in the manner described in this Article.

#### 12.0404 Storage or Accumulation of Building Materials Prohibited

It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building, or except where such building materials are part of the stock in trade of a business located in said property, or except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the city and such construction is completed within a reasonable time.

Such storage or accumulation of building materials on any private property in the city is hereby declared to be a nuisance and shall be abated in the manner described in this Article.

#### 12.0405 Vehicle Removal

The City may remove or cause to be removed any junk automobile or abandoned vehicle, or parts of either, from any unenclosed private property after having notified in writing the owner or occupant of the property of its

intention to do so at least forty-eight hours prior to the removal. The notice shall be served personally upon the owner or occupant of the property if occupied, or may be posted in a conspicuous place upon vacant or unoccupied property. The junk automobiles or abandoned vehicles or parts of either, shall be removed to the automobile pound and disposed of in accordance with law. Such removal by the police department shall not excuse or relieve any person of the obligation imposed by this chapter to keep his property free from storage or accumulation of junk automobiles or abandoned vehicles, or parts of junk automobiles or abandoned vehicles, or parts of either, nor from the penalties for violation thereof. (Source: North Dakota Century Code section 39-26-02)

#### 12.0406 Conditions When Junk or Abandoned Vehicle May be Sold Immediately

When a junk automobile or an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in the state or any other state or foreign country, it is immediately eligible for disposition and must be disposed of to a scrap iron processor licensed under section 39-26-10 of the North Dakota Century Code and is not subject to the notification, reclamation, or title provisions of this article. Any license plate displayed on any such vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle. (Source: North Dakota Century Code section 39-26-05)

#### 12.0407 Notice to Owners of Abandoned Vehicle

1. When an abandoned motor vehicle does not fall within the provisions of Section 12.0406, the city taking it into custody shall give notice of the taking within ten days. The notice must set forth the date and place of the taking, the year, make, model, and serial number of the abandoned motor vehicle and the place where the vehicle is being held, must inform the owner and any lienholders or secured parties of their right to reclaim the vehicle under section 12.0408, and must state that failure of the owner or lienholders or secured parties to exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title, and interest in the vehicle and a consent to the disposal of the vehicle pursuant to Section 12.0409.

2. The notice must be sent by certified mail, return receipt requested, to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders or secured parties of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice must be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned. Published notices may be grouped together for convenience and economy. (Source: North Dakota Century Code section 39-26-06)

#### 12.0408 Right of Owner to Reclaim Abandoned Vehicle

1. The owner, secured parties, or a lienholder of an abandoned motor vehicle has a right to reclaim such vehicle from the city taking the motor vehicle into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within thirty days after the date of the notice required by Section 12.0407.

2. Nothing in this chapter may be construed to impair any lien of a garage keeper under the laws of this state or the right of a lienholder or secured parties to foreclose. For the purposes of this section, "garage keeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair, or maintenance of motor vehicles. (Source: North Dakota Century Code section 39-26-07)

#### 12.0409 Disposal of Vehicle – Disposition of Proceeds

1. An abandoned motor vehicle not more than seven model years of age taken into custody by the city and not reclaimed under Section 12.0408 must be sold to the highest bidder at public auction or sale, following reasonable published notice thereof. The purchaser must be given a receipt in a form prescribed by the North Dakota Department of Health which shall be sufficient title to dispose of the vehicle. The receipt also entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The license plates displayed on an abandoned vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle.

2. From the proceeds of the sale of an abandoned motor vehicle, the city may reimburse itself for the cost of towing, preserving, and storing the vehicle, and for all notice and publication costs incurred under this chapter. Any remainder from the proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or secured parties for ninety days and then must be delivered to the administrator of the North Dakota state abandoned property office in accordance with chapter 47-30.1 of the North Dakota Century Code. (Source: North Dakota Century Code section 39-26-08)

#### 12.0410 Disposal of Vehicles Not Sold

When no bid has been received for an abandoned motor vehicle, the unit of government may dispose of it pursuant to contract under Section 12.0411. (Source: North Dakota Century Code section 39-26-09)

#### 12.0411 Contract for Disposal

The city may contract with any qualified licensed scrap iron processor, licensed by the North Dakota Department of Health, for collection, storage, incineration, volume reduction, transportation, or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal. Such contract may authorize the contracting scrap iron processor to pay to the owner of any abandoned motor vehicle an incentive payment for such vehicle if it is voluntarily surrendered and delivered to the scrap iron processor. For the purposes of this section, an owner of an abandoned motor vehicle includes only a person who has owned and operated the vehicle for the person's personal or business use. (Source: North Dakota Century Code section 39-26-10)

#### 12.0412 Restrictions on Storage of Vehicles by Collector

A collector may store unlicensed, operable or inoperable, vehicles and parts cars, including antique motor vehicles, junk automobiles, and abandoned motor vehicles, and special interest vehicles, on the collector's property provided such vehicles and parts cars are kept in an outdoor storage area which is maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery, or other appropriate article. (Source: North Dakota Century Code section 39-26-13)

### ARTICLE 5 – Noxious Weeds and Tall Grasses

#### 12.0501 Definition



Whenever used in this ordinance, the term “noxious weeds” shall mean and include all weeds of the kind known as Canada Thistle, sow thistle, quack grass, leafy spurge (Euphorbia esula or Ruphrobia virgata), field bindweed, Russian knapweed, (Centaurea picris), hoary cress (Lapidium draba, Lepidium reoebis, abd Humenophysa pubescens), dodder, or any similar unwanted vegetation over eight inches in height.

Whenever used in this ordinance, the term “tall grasses” shall mean all grass in excess of eight inches in height.

#### 12.0502 Weeds and Tall Grasses Prohibited

No owner of any lot, place or area within the City or the agent of such owner, shall permit on such lot, place or area and the one-half of any road or street lying next to the lands or boulevards abutting thereon, noxious weeds, other deleterious, unhealthful growths or tall grasses.

#### 12.0503 Notice to Destroy

The City health officer or person designated by the City is hereby authorized and empowered to notify in writing the owner of any lot, place, or area within the City or the agent of such owner, to cut, destroy, and /or remove any noxious weeds or tall grasses found growing, lying, or located on such owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon. The notice shall be by registered or certified mail addressed to said owner or agent of said owner at their last known address and shall give such owner or agent a minimum of five days to cut or destroy the noxious weeds or tall grasses.

#### 12.0504 Action Upon Non-Compliance

Upon the failure, neglect, or refusal of any owner or agent to cut, destroy and/or remove noxious weeds or tall grasses growing, lying or located upon the owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon, after receipt of the written notice provided for in 12.0503 or within five days after the date of such notice in the event the same is returned to the City because of inability to make delivery thereof, the health officer or person designated by the City is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or tall grasses or to order their removal by the City.

#### 12.0505 Cost Assessed to Property

When the City has affected the removal of such noxious weeds or tall grasses or has paid for their removal, the actual cost thereof, if not paid by the owner prior thereto, shall be charged and assessed against the property upon which the noxious weeds or tall grasses were cut or destroyed. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists and shall be approved by the governing body. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law. (Source: North Dakota Century Code section 40-05-01.1)

ARTICLE 6 – General Penalty Provision

12.601 Penalty for Violation of Chapter

Any person violating any of the provisions of this Chapter, upon conviction, is subject to a fine of not more than five hundred dollars (\$500.00) for each violation, and a separate violation may be deemed committed on each day the violation is permitted to exist.

ARTICLE 7- Nuisances- Abatement

12.0701 Authority to examine premises

Any person designated by the governing body shall have authority to enter into and examine at any time all buildings, lots and premises of any description within the city, for the purpose of ascertaining the condition thereof, or determining if there has been a violation of any of the provisions of this chapter, or if a nuisance, source of filth or cause of sickness exists on such property, so far as the public health may be affected thereby.

12.0702 Notice to Abate or Remove

In all cases in which any person designated by the city council shall find a violation of any of the provisions of this chapter or shall deem it necessary for the protection of the public health, to abate or remove any nuisance, source of filth, or cause of sickness which shall be found on private property, it shall cause a notice in writing to be served on:

1. The property owner;
2. The person in charge of the property, including any agent, occupant, lessee, contract purchaser, or person other than the owner having possession, exercising dominion or control of the property; and/or
3. The person who creates, causes, permits, suffers, continues, or maintains a nuisance.

For abating or removing the nuisance, source of filth, or cause of sickness, and requiring such person, at such person's own expense, to abate or remove the nuisance, source of filth, or cause of sickness found to exist, and to put the property into good sanitary condition within a reasonable time to be fixed by the person designated by the city council, not less than 24 hours or not exceeding 30 days after service of such notice.

12.0703 Notice to Abate or Remove – Failure to Comply

If the owner or occupant refuses or neglects to comply with such notice in accordance with Section 12.0702, or if such nuisance, source of filth or cause of sickness exists on the property of the owner of which cannot be found, the person designated by the governing body shall cause the removal of such nuisance, source of filth or cause of sickness, and shall put the said property in good sanitary condition.

12.0704 Authorized Persons to Enter Abatement Orders

The person designated by the governing body shall have authority hereunder to enter orders to fill or drain any lot or piece of ground upon which stagnant water has accumulated, or to cut and remove any noxious or other weeds, or to remove any animal or vegetable refuse matter or any putrid or unwholesome substance, or any outhouses, privies, vaults or other structures prohibited by this chapter, or do whatever in the person's judgment is necessary to put any building, place or property into a good sanitary condition.

12.0705 Abatement of Nuisance Costs

1. An accurate account of the costs incurred to abate or remove the nuisance with reference to each lot or parcel of ground shall be kept and paid by the city. Such costs, however, shall be certified by the person designated by the governing body to the city auditor and shall be assessed as follows:
  - a. Against the lot or parcel of land upon which the work to abate or remove the nuisance has been done. (Source: North Dakota Century Code section 40-05-01.1)
  - b. Against each person responsible for abating the nuisance.
2. In addition to being assessed against the lot or parcel of land upon which the work has been done, each person responsible for abating or removing the nuisance shall be served with a statement of the costs to be assessed, and each shall be liable for such costs incurred in abating or removing the nuisance by the city. Such costs may be recovered by a suit at law or equity, or any other manner provided by law.

