



## CHAPTER 12 PUBLIC NUISANCES

### **ARTICLE 1   Sanitary Nuisances**

**12.0101   Residence – When Sewer and Water Required** It shall be unlawful for any persons to use or occupy or permit to be used or occupied for residence purposes, any premises or building within the corporation limits of this city without first making or causing to be made proper connections with said sewer and water facilities and mains.

The term “proper connections” when used in this section shall be construed to mean connections with such 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 and sanitary toilets and drains and such equipment shall at all times be kept in repair and in a manner 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 suffer or 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, and any private sewer system emitting such odor is hereby declared to be a nuisance and menace to 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; and any person permitting any dead animal in the street, alley or public place of the city or allowing any animal which he owned or which was in his possession or under his control 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 Putrid Substances – Offensive Odors** It shall be unlawful for the owner or occupant of any property or parcel of ground in this city to suffer or permit water, animal waste, refuse (as defined in 10.0301), or any putrid substance to accumulate or stand so as to cause an odor to be omitted therefrom which is offensive to the sense of smell of the people of the city or which has become dangerous or injurious to public health. Any violation of this section is hereby declared to be a nuisance. (Revised 4-03-2001)

## **ARTICLE 2   Smoke – Gases**

**12.0201 Smoke, Dust, Ashes, Noxious Gases, Cinders – 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 nuisance.

**12.0202 Smoke, Dust, Ashes, Cinders, Noxious Gases – Prohibited** No person, persons, associated 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 the public, or the 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, and the maintenance, use or operation within said city of an machine, device, appliance, equipment or apparatus of any kind so as to interfere with radio reception in violation hereof, is hereby declared a nuisance.

**12.0302   Loud, Disturbing, Unnecessary Noises – Prohibited** The making, creating or maintenance of loud, unnatural, unusual or 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 or there sounding for an unnecessary and unreasonable period of time.
2. Radios, phonographs, etc. 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 a room, vehicle or chamber in which such machine or device is operated, and who are voluntary listeners thereto. The operation 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 said machine or device or from the building, structure or vehicle in which said device is located shall be prime facie evidence of a violation of this section.
3. Loudspeakers, amplifiers for advertising. The use, operating or permitting to be played, used or operation of 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 commercial advertising or attracting the attention of the public to any building or structure.
4. Yelling, shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., 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. Schools, courts, churches, hospitals. 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 in such streets indicating that the same is a school, hospital or court street.

6. Engine Brakes and Compression Brakes. The use of any engine brake, compression brake or mechanical brake which is activated or operated by the compression of a motor vehicle is prohibited within the city limits. Emergency response vehicles shall be exempt from the foregoing prohibition. (Enacted 11-17-03)

#### **ARTICLE 4   Automobiles – Personal Property**

**12.0401   Automobiles, Personal Property – When a Nuisance** The following described property is hereby declared to be a nuisance in violation of this section, but such enumeration is not exclusive.

1. The unsheltered storage of old, use, stripped or junked automobiles not in good, safe operating condition or automobiles lacking the required equipment is listed in Chapter 39-21 of the North Dakota Century Code or automobile not displaying current registration.
2. The unsheltered storage of machinery, implements, appliances, bicycles, equipment or personal property of any kind which if no longer safe or usable for the purpose for which it was manufactured.
3. Any vehicle, equipment, item or article of personal property which constitutes an obstruction, hazard or detriment to public traffic or snow removal operations, public safety, public health or morals.
4. Any vehicle, property or item which is abandoned or unclaimed within the city.

Any property declared to be a nuisance shall be abated in the manner prescribed in this article.

(Revised 4-03-2001)

**12.0402   Abatement Required by Owners** The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of this city upon which such storage is made, and also the owner, owners and/or lessees of said property involved in such storage (all of whom are hereinafter referred to collectively as “owners”), shall jointly and severally abate said nuisance by the prompt removal of said personal property into completely enclosed buildings authorized to be used for storage purposes, if within the corporate limits of the city, or otherwise to remove it to a location outside of the corporate limits.

**12.0403 Abatement Required – Penalty for Failure** If said owners allow said nuisance to exist or fail to abate said nuisance, they, and each of them upon conviction thereof shall be fined not less than Twenty-five and No/100 dollars (\$25.00), nor more than Five Hundred and No/100 Dollars (\$500.00) for each infraction and a separate infraction shall be deemed committed on each day during or on which such nuisance is permitted to exist. (Revised 4-03-2001)

**12.0404 Removal and Impoundment by City** The Police Department may remove or cause to be removed to the City Hall, or any other place within the city, selected for the purpose of any personal property described in 12.0401 and may impound and retain the same until the expense of removal, storage and impounding is paid, together with the amount of any fine, costs, bail or other claims of the city against the owner, or any other person lawfully entitled to the possession thereof.

**12.0405 Removal and Impoundment – When Sold** If not reclaimed and redeemed by the true owner or the person lawfully entitled to the possession thereof within a period of thirty (30) days after impounding, any article of personal property described in 12.0401 may be sold and disposed of by the Police Department in the manner hereinafter provided. Notice that such property will be sold shall be published once, at least six (6) days prior to the sale, in a newspaper published in the city or if none in the official newspaper of the county. Such notice shall specify a description of the property to be sold, the time and place of sale, and shall be signed by the Chief of Police. Such sale shall be held between the hours of 9:00 A.M. and 5:00 P.M. of the day specified in the notice. Such sale shall be held at the front door of the City Hall, or at the location of the property to be sold. Any sale may be postponed or discontinued by public announcement at the time of the sale where there are no bidders or when the amount offered is grossly inadequate, or for other reasonable cause. The city may become a purchaser of any or all property at such sale. The Chief of Police shall give the purchaser at such sale a certificate of purchase of such property.

**12.0406 Removal and Impoundment Proceeds** Within thirty (30) days after such sale, the person making the sale shall make out, in writing, and file with the city a full report of such sale specifying the property sold, the amount received therefore, the amount of costs and expenses, the disposition made by him of the proceeds of the sale. The proceeds arising from such sale shall be delivered over to the City Auditor and credited to the general fund.

## **ARTICLE 5 Penalty for Violation of this Chapter**

**12.0501 Penalty** Any person who shall violate any provisions of this chapter or who shall fail to comply with any order as affirmed or modified by the governing body or court of competent jurisdiction enforcing the provisions of this chapter shall be guilty of an offense and be punishable by a fine of not more than Five Hundred and No/100 (\$500.00). The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Enacted 4-03-2001)