

CHAPTER XII  
PUBLIC NUISANCES

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CHAPTER XII  
PUBLIC NUISANCES

Article 1  
Noxious Weeds

**12.0101 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 *Euphorbia virtgate*), field bindweed, Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*, *Lepidium repens* and *Humenophysya pubescens*), dodder, regardless of height, or any unwanted vegetation including, but not limited to grass over eight inches in height.

~~05/05/80~~ 11/02/09

**12.0102 Weeds 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 or other deleterious, unhealthful growths.

05/05/80

**12.0103 Notice to Destroy**

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 or other deleterious, unhealthful growths.

~~05/05/80~~ 11/02/09

**12.0104 Action Upon Non-Compliance**

Upon the failure, neglect, or refusal of any owner or agent to cut, destroy and/or remove noxious weeds 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 mailing of the written notice provided for the 12.0103 above or within five days after the date of such notice in the event the same is returned to the City Post Office Department because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the health officer is hereby authorized and empowered to pay for the cutting, destroying and/or removal of such noxious weeds or to order their removal by the City.

~~05/05/80~~ 11/02/09

**12.0105 Cost Assessed to Property**

When the City has effected the removal of such noxious weeds or has paid for their removal, the actual cost thereof, if not paid by said owner prior thereto, shall be charged and assessed against the property upon which the noxious weeds 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 and shall bear interest at seven

percent. 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. The actual cost removal of such noxious weeds shall be deemed to be \$40.00 per hour, with a minimum actual cost of \$40.00 for each lot that such noxious weeds are removed from.

05/05/80

Article 2  
Sanitary Nuisances

**12.0201      Residences - 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 where the lot upon which said building is constructed is located \_\_\_\_\_ feet or less from any water main or sanitary sewer within the City without first making or causing to be made proper connections with said sewer and water facilities and mains and, in determining the distance for the purpose of determining when any building or premises is included herein the measurement shall be taken between the nearest point on said lot and the nearest point on any water main or sewer line.

The term “Proper Connections” when used in this section shall be constructed 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.

05/05/80

**12.0202      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 12.0201.

05/05/80

**12.0203      Outhouses - Cesspools, Exceptions**

- a. Private sewage system and private water supplies may be constructed to serve new buildings to be built in areas not included in Section 12.0201, providing such lot area complies with the requirements of any zoning requirements.
- b. Private sewage systems and private water systems may be installed in existing buildings in areas not included in Section 12.0201.
- c. Each private sewage system or private water supply hereafter altered or constructed shall conform to the State Health Department Standards.

05/05/80

**12.0204          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.

05/05/80

**12.0205          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 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.

05/05/80

**12.0206          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.

05/05/80

**12.0207          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, and any pool of water and any putrid substance permitted to become offensive or injurious to the public health is hereby declared to be a nuisance.

05/05/80

**12.0208          Dirt, Filth, etc., in Street and Property**

It shall be unlawful for any person, firm or corporation to throw, place, deposit, leave or cause to

be thrown, placed, deposited or left in any of the public streets, highways, alleys, parks or thoroughfares, or on any private premises in this City any dirt, filth, sewage, sweepings, rags, dung, garbage, compost, wastepaper, excelsior, straw, hay, leaves, brush, weeds, dry grass, shavings, barrels, boxes, wooden crates, lumber, stable manure, ashes, vegetables, slop or litter of any kind, and any place or property having left or deposited thereon any of the things or substances aforesaid is hereby declared to be a nuisance.

05/05/80

**12.0209 Stables, Barns, Sheds**

It shall be the duty of all persons having stables, barns or sheds, whether as owners or tenants or as agents having control thereof, to remove or cause to be removed therefrom all manure and refuse of every kind at least once each week between the 15<sup>th</sup> day of March and the 15<sup>th</sup> day of December of each and every year.

05/05/80

**12.0210 Spitting**

No person shall spit upon any sidewalk or upon the stairs, hallway, floor, carpet, furniture or walls of any public or office building in this City.

05/05/80

Article 3  
Smoke - Gases

**12.0301 Smoke, Dust, Ashes, Gases, Cinders, A Nuisance**

The emission of dense smoke, ash, dust, soot, 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.

05/05/80

**12.0302 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 of 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.

05/05/80

Article 4  
Radio Interference and Noise Control

**12.0401      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 any machine, device, appliance, equipment or apparatus of any kind so as to interfere with radio reception in violation hereof, is hereby declared a common nuisance.

05/05/80

**12.0402      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 are hereby declared to be unlawful and a public nuisance. The following acts, among others, and 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 their 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 the 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 the building, structure or vehicle in which it is located shall be prima 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 p.m. and 7 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.

05/05/80

**12.0403 Penalty**

1. Any person violating any provision of this article may be punished by a penalty of not more than five hundred dollars (\$500.00). A separate offense shall be deemed committed for each day such a violation is committed or permitted to continue.
2. Exceptions: This article shall not apply to emergency vehicles as defined by state law or to railroad trains.

08/07/00

Article 5  
Junk, Abandoned Vehicles, Building Materials,  
Personal Property, Etc.

**12.0501 Definitions**

The following words or terms when used herein shall be deemed to have the meanings set forth below:

1. "Junk" shall include, without limitations, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal, or any other castoff material of any kind, whether or not the same could be put to any reasonable use.
2. "Junk automobiles" shall include, without limitations, any motor vehicle which is not licensed for use upon the highways of the State of North Dakota for a period in excess of sixty (60) days and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of sixty (60) 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.
3. "Abandoned vehicle" shall include, without limitations, any vehicle which has remained on private property for a period of forty-eight (48) continuous hours or more without consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.

4. “Blighted structure” shall include without limitations, any dwelling, garage, or outbuilding, or any factory, shop, store, warehouse or any other structure or part of a structure which because of fire, wind or other natural disaster, or physical deterioration, is no longer habitable as a dwelling nor useful for the purpose for which it may have been intended.
5. “Building materials” shall include, without limitations, 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.
6. “Person” shall include all natural persons, firms, copartnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves or by a servant, agent or employee. All persons who violate any of the provisions of this article, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.
7. “Trash and rubbish” shall include any and all forms of debris not herein otherwise classified.

05/05/80

**12.0502 Storage of Junk, Junk Automobiles, etc., Contrary to Public Health and Safety**

It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials and the maintenance of blighted structures upon any private property within the City of Emerado 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.

05/05/80

**12.0503 Unlawful to Store or Accumulate Junk, Junk Automobiles, etc.**

It shall be unlawful for any person to store, or permit the storage or accumulation of trash, rubbish, junk, junk automobiles or abandoned vehicles on any private property in the City of Emerado, 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 secondhand goods or junk gatherer.

05/05/80

**12.0504 Unlawful to Dismantle Automobile Except on Business Premises**

It shall be unlawful for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same be a junk automobile, abandoned vehicle or otherwise, or any appliance or machinery, except in 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.

05/05/80



**12.0505 Unlawful to Maintain Blighted Structure**

It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with a valid building permit issued by the City of Emerado and unless such construction is completed within a reasonable time.

05/05/80

**12.0506 Unlawful to Store Building Materials Except on Business Premises in Sanitary Manner**

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 on 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 of Emerado; provided, however, it shall be unlawful to allow any trash, construction waste or discarded materials to accumulate in such a manner as to create an unsanitary condition, become a harborage for insects or rodents or become a nuisance to adjacent properties due to blowing or scattering debris.

05/05/80

**12.0507 Junk Automobiles or Abandoned Vehicles - When Police Department May Remove**

The police department 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 such property of its intention to do so at least forty-eight (48) hours prior to such removal. Such 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. Such 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 article to keep their 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.

05/05/80

**12.0508 Same - Disposition When Determined To Be Of No Value**

Any junk automobile, abandoned vehicle or parts of either removed from unenclosed private property as provided by Section 12.0507, or coming into the possession of the Emerado Police

Department by abandonment on public property in the City of Emerado, which is determined by the chief of police to be of no value other than as scrap metal shall be disposed of by the City of Emerado, in such a manner as to eliminate the unsightly accumulation of such worthless hulks and the hazards to public health attendant thereto with the least practicable delay.

05/05/80

**12.0509 Penalty**

Any person, firm or corporation violating any of the terms or provisions of this article shall, upon conviction, be punished by a fine of not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment, in the discretion of the court; the court to have the power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, association or corporation shall violate any of the provisions of this article shall constitute a separate offense.

05/05/80

**12.0510 Automobiles, Personal Property - When A Nuisance**

Unsheltered storage of old, used, stripped, junked and other automobiles not in good, safe operating condition, and of any other vehicles, machinery implements and/or equipment and personal property of any kind which is no longer safely usable for the purposes with which it was manufactured for a period of thirty (30) days or more (except in a licensed junk yard) within the City, and any motor vehicle, animal and article of personal property which constitutes an obstruction to, hazard or detriment to public traffic, snow removal operations, public safety and public health and morals or which may be abandoned or unclaimed within this City is hereby declared to be a nuisance and dangerous to public safety and shall be abated in the manner prescribed in this article.

05/05/80

**12.0511 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 personalty 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 corporate limits.

05/05/80

**12.0512 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 dollars nor more than five hundred dollars for each offense and a separate offense shall be deemed committed on each day during or on which such nuisance is permitted to exist.

05/05/80

**12.0513 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 any personal property described in 12.0510 and may be 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 hereof.

05/05/80

**12.0514 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 or personal property described in 12.0510 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 o'clock in the morning and 5:00 o'clock in the afternoon 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.

05/05/80

**12.0515 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 full report of such sale specifying the property sold, the amount received therefore, the amount of costs and expenses, and disposition made by him of the proceeds of the sale. The proceeds arising from such sale be delivered over to the City Auditor and credited to the General Fund.

05/05/80