

CHAPTER TWELVE
PUBLIC NUSANCES

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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 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 **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.

12.0201 **Smoke, Dust, Ashes, 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, 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.

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 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.

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 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 11:00 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.

12.0401 **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 safe 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 the city, is hereby declared to be a nuisance and dangerous to public safety and shall be abated in the manner prescribed in this article

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 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) or each infraction and a separate infraction shall be deemed committed on each day during or on which such nuisance is permitted to exist.

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 o'clock A.M .and 5:00 o'clock 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.

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 Euphorbia virgata), field bindweed, Russian knapweed, (Centaurea picris), hoary cress (Lapidium draba, Lepidium repens, and Humenophysa pubescens), dodder, or any similar unwanted vegetation over eight inches in height.

12.0502 **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.

12.0503 **Notice to Destroy**

The City health officer is hereby authorized and empowered to notify in writing the owner of any such lot, place, or area within the City or the agent of such owner, to cut, destroy, and/or remove any such noxious weeds 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. Such notice shall be by registered or certified mail addressed to said owner or agent of said owner at his last known address and shall give such owner or his agent a minimum of five days to cut or destroy said noxious weeds.

12.0504 **Action Upon Non-Compliance**

Upon the failure, neglect, or refusal of any owner or agent so notified 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 receipt of the written notice provided for in 12.0503 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.

12.0505 **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.

12.0601 **Definition**

As used in this article.

Control shall mean to prevent the spread of any noxious weed, designated by the weed and mowing control officer, by seed or any other propagating part, and mowing of grasses in excess of eight (8) inches.

Control authority shall mean the weed and mowing control officer and such officer's assistants, and the board of the city commissioners.

City weed and mowing board shall mean members of the board of city commissioners, acting as such.

Eradicate or eradication shall mean to destroy a plant so that it is not viable.

Landowner shall mean any owner of federal, state, municipal or private land, under statutory authority or otherwise, but does not include a lessee, renter, tenant, operator or an owner of any easement or right-of-way.

Noxious weed shall mean any plant propagated by either seed or vegetative parts which is determined by the weed and mowing control officer after consulting with the state cooperative extension service, or the city weed and mowing board after consulting with the county extension agent, to be injurious to public health, land or other property.

Operator shall mean the person chiefly responsible for or in possession of the land, whether for self-benefit, or for the benefit of the landowner or another.

Person shall mean any individual, partnership, firm, corporation, company, society, association, the state, or any department, agency or subdivision thereof or any other entity which occupies or owns land or which causes noxious weed seeds or propagating parts to be disseminated or transported in North Dakota.

Weed and mowing control officer shall mean the person or persons appointed or designated by the board of city commissioners and or the city commissioners to be responsible for the operation and enforcement of this article within the city.

12.0602 **Control and eradication of noxious weeds and mowing of grasses.**

It shall be the duty of every person in charge of or in possession of land in this city, whether as landowner, lessee, renter or tenant, to eradicate or to control the spread of noxious weeds on those lands and mow grasses in excess of eight (8) inches.

12.0603 **Notice to Destroy or Mow**

The weed and mowing control officer is hereby authorized and empowered, through personal contact, by telephone, letter or other means to notify the owner or the agent of such owner or any lot, place or area within the city, to cut, destroy and remove any noxious weeds

found growing, lying or located on such owners property or upon the one-half (1/2) of any road or street lying next to the lands or boulevards abutting thereon and/or to mow weeds or grasses in excess of eight (8) inches high. Lots or property in excess of one (1) acre need not be mowed if such lot and the lot or property within twenty (20) feet of the right-of-way edge of a paved road or street is mowed in conformance with this article so that the grasses do not exceed (8) inches in height. The notice, shall give the owner or his agent a minimum of five (5) days to mow grasses and cut or destroy the noxious weeds. The weed and mowing control officer may cause to be posted or inserted in the official newspaper for the city such official notices as the officer may deem necessary in the furtherance of this chapter.

12.0604 Action Upon Non-Compliance

Upon the failure, neglect or refusal of any owner or agent so notified to mow and/or cut, destroy and remove noxious weeds growing, lying or located upon the owner's property or upon the one- half (1/2) of any road or street lying next to the lands or boulevards abutting thereon, after contact and notice provided for by this article, or within five (5) days after the date of any letter containing such notice is returned to the city because of inability to make delivery thereof, provided the letter was properly addressed to the last known address of such owner or agent, or if the weed and mowing control officer is unable to contact the owner or agent by telephone after reasonable effort, the weed and mowing control officer may pay for the cutting, destroying and removal of such noxious weeds or order their removal by the city. In the event the noxious weeds cannot be effectively cut, destroyed or removed or the lot mowed because of an accumulation of junk, rubble, debris or other matter upon the property, the weed and mowing control officer may arrange for the removal of the junk, rubble, debris or matter in order to place the property in a condition which will allow the effective removal of the noxious weeds.

12.0605 Cost Assessed to Property

When the city has effected the mowing and/or removal of noxious weeds or has paid for their removal, the actual cost thereof, including any necessary costs for placing the property in a condition to allow the effective mowing and/or removal of the noxious weeds, will be charged to the property owner at a rate no less than one hundred dollars (\$100) per instance and if not paid by said owner prior thereto, shall be charged and assessed against the property upon which the grasses were mowed and/or 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 city commission. 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.

12.0701 **Definition**

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

1. The term "Junk" shall include, without limitation, trash, rubbish, 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. The term "Junk automobiles" shall include, without limitation, any motor vehicle which is not licensed for use upon the highways of the state of North Dakota for a period in excess of 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 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. The term "abandoned vehicle" shall include, without limitation, any vehicle which has remained on private property for a period of 48 continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of 48 continuous hours or more after the consent of the owner or occupant has been revoked.
4. The term "blighted structure" shall include, without limitation, 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. The term "building materials" shall include, 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.
6. The term "person" shall include all natural persons, friends, co-partnerships, 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 ordinance, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.
7. The terms "trash" and "rubbish" shall include any and all forms of debris and waste material not herein otherwise classified.

12.0702 **Storage of junk, junk automobiles, etc.--Contrary to public health and safety-Nuisance.**

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 Wilton is a nuisance and 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.

12.0703 **Unlawful to store or accumulate junk automobiles, abandoned vehicles or to abandon vehicles**

- A. 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 Wilton except within a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts.
- B. No person shall abandon any vehicle upon a street, highway, alley or other public roadway.
- C. No person shall abandon any vehicle upon any public or private property without the express or implied consent of the owner or person in lawful possession or control of the property
- D. For purposes of this section, a vehicle shall be presumed to be abandoned if it is left unattended on a highway, alley, or other public roadway, for a period in excess of 48 hours; or on any public or private property without the express or implied consent of the owner or person in lawful possession or control of the property, for a period in excess of 48 hours. Also see Ordinance 9.1410.
- E. Any police officer who has reasonable grounds to believe that a vehicle has been abandoned may remove the vehicle, or cause it to be removed, at the expense of the owner, to the nearest garage or other place of safety.
- F. In the event a vehicle is not reclaimed by the registered owner or any lien holder within 90 days, the laws of this state governing the disposition of abandoned property shall apply and the property shall be disposed of in accordance therewith.

12.0704 **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 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.

12.0705 **Unlawful to maintain blighted structure**

It shall be unlawful for any person to keep or maintain any blights 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 Wilton, and unless such construction is completed within a reasonable time.

12.0706 **Unlawful to store building materials except on business premises**

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 of Wilton, and unless such construction is completed within a reasonable time (one year from issue of permit).

12.0707 City may remove junk automobiles or abandoned vehicles

Notice to property owner.--The city may remove or cause to be removed any junk, junk automobile or abandoned vehicle, or parts of either, from any public or private property after having notified, in writing, the owner or occupant of such property of its intention to do so at least 30 days prior to such removal. Such notice shall identify the property to be removed and the real property upon which it is located and shall state further that if it is not removed by the owner within 30 days, it will be removed by the city and the cost thereof will be assessed against the real property described in the "notice".

The notice may be served personally upon the owner or occupant of the property; or may be served by regular mail addressed to the same person and to the same address as is designated to receive the real estate tax notice for the property. If such junk or junk automobiles, or parts of either, have not been removed by the owner within the time specified, it shall be removed by the city and taken to a location appropriate to store such items. Such removal by the city shall not excuse or relieve any person of the obligation imposed by this ordinance to keep his property free from storage or accumulation of junk, junk automobiles or abandoned vehicles, or parts of either, nor from the penalties for violation thereof.

12.0708 Appeal to city commission

In the event the property owner disagrees with the determination of the city and the notice for removal, the property owner may appeal to the board of city commissioners by filing with the city Auditor, a notice of appeal, in writing. Such appeal must be filed within fourteen (14) days of receipt of the notice for removal and before the deadline within which the owner is otherwise required to remove the junk, junk automobile, and/or abandoned vehicle.

12.0709 Junk automobiles and abandoned vehicles--Transfer to other property

In the event that any junk, junk automobiles or abandoned vehicles are identifiable and are moved or transferred from one parcel of real property to another (within the city limits) after receipt of the notice provided for in this article, a new notice shall not be required and the identifiable junk, junk automobiles or abandoned vehicles may be removed by the city as provided in this article and the costs assessed against the property upon which it was located at the time the notice was given.

12.0710 Abatement of nuisance—Penalty

The cost of removal of any junk, junk automobiles and abandoned vehicles may be assessed against the property where said junk, junk automobiles and abandoned vehicles are located at the time the notice was issued. Such removal and assessment of costs shall not be deemed to be the exclusive remedy of the city. Violation of any of the provisions of this article is an infraction, punishable in accordance with the Wilton Ordinance. Each day of violation shall be deemed to be a separate infraction.