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**CHAPTER TWELVE  
PUBLIC NUISANCES**ARTICLE 1 – SANITARY NUISANCES12.0101 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 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 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 twenty-four (24) 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 twenty-four (24) 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 and any well or other supply of water used for drinking or household purposes which is polluted or which is so constructed or situated that it may become polluted or are hereby declared to be a public nuisance.

12.0108 Garbage and Refuse

Depositing, maintaining or permitting to be maintained or to accumulate upon any public or private property, any household waste, including but not limited to, items such as paper, rags, trash, garbage, discarded clothing, shoes, curtains, linens, and other apparel, batteries, motor oil, tin cans, aluminum cans, plastic containers, glass containers, cleaning utensils, cooking utensils and discarded household fixtures; water, sewage, excrement, any decaying fruit, vegetables, fish, meat or bones or any foul, putrid or obnoxious liquid substances when such items are stored, collected, piled or kept on private or public property, and in view of adjacent properties or public right of ways is hereby declared to be a public nuisance.

12.0109 Undressed Hides and Carcasses

Undressed hides and carcasses kept longer than twenty-four (24) hours, except at the place where they are to be manufactured, or in a storeroom, or basement whose construction is approved by the health department is hereby declared to be a public nuisance.

12.0110 Breeding Places for Flies

The accumulation of manure, garbage or anything in which flies may breed is hereby declared to be a public nuisance.

12.0111 Stagnant Water

Any excavation in which stagnant water is permitted to collect is hereby declared to be a public nuisance.

12.0112 Garbage Handling Improperly

Throwing or letting fall on or permitting to remain on any street, alley or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substances is hereby declared to be a public nuisance.

12.0113 Rodents

Accumulation of junk, old iron, automobiles or parts thereof, or collection of branches or stumps, or anything whatever in which rodents may live or breed or accumulate is hereby declared to be a public nuisance.

12.0114 Bonfires in Public Places or Private Ground

Burning, causing or permitting to be burned in any street, alley or public or private ground any dirt, filth, manure, garbage, sweepings, leaves, ashes, paper, rubbish or material of any kind is hereby declared to be a public nuisance. The use of commercial grills, commercial burning pits, fireplaces or wood burning stoves shall not be prohibited in this section. Use of personal outside fire pits are allowed in approved containers by the fire chief.

12.0115 Parking Livestock Trucks or Trailers in Residential Districts

Parking or permitting a livestock truck or trailer to remain on any street, area or public ground in a residential district when such truck or trailer gives off an offensive odor or is contaminated with manure or other filth is hereby declared to be a public nuisance.

12.0116 Household Appliances

Household appliances, fixtures and furniture including but not limited to, items such as stoves, refrigerators, freezers, sinks, cabinets, and other kitchen appliances, bedroom furniture, mattresses, tables, chairs, clothes washing and drying machines, heating appliances, water heaters, bathroom appliances and fixtures, light fixtures, washtubs, when such items are stored, collected, piled or kept in a district zoned residential, neighborhood commercial, highway commercial or any residences in other zoning districts and are not stored inside a building is hereby declared to be a public nuisance. Except that patio furniture designed for outdoor use shall not constitute a nuisance when kept in a residential district, and in view of adjacent properties or public rights-of-way.

12.0117 Dismantled Motor Vehicles, Etc.

The wrecking, storing or accumulation of dismantled motor vehicles, motor vehicle bodies and disassembled parts thereof, dismantled bicycles or bicycle parts, other machines and motors and old cars for the purpose of junking the bodies and securing parts by any other person in residential, neighborhood commercial, highway commercial or any residences in other zoning districts, and are not stored inside a structure thus causing unsightliness in such districts is hereby declared to be a public nuisance.

12.0118 Electrical Generators

The use of generators to supply electricity to any structure within the City of Oakes is prohibited. This prohibition shall not apply to emergency situations when the delivery of

electricity by a public utility is interrupted. The failure to pay an electrical bill, resulting in a disconnect by the utility shall not be deemed an emergency. Contractors may use generators for licensed work between the hours of 6:00 A.M. and 6:00 P.M. unless the City Auditor grants a further extension of time, limited to several days.

#### 12.0119 Dog Waste

The owners of all dogs must immediately remove the excrement of their dog(s) from any street, alley, sidewalk, City park or other public grounds. The owners of all dogs shall immediately remove the excrement of their dog(s) from private property which they do not own or lease. Owners of dogs shall not allow dog excrement from their dog(s) to accumulate on their property if it creates a breeding ground for flies or other insects. Violation of this section is not subject to the other notice requirements of this chapter and may subject the owner of the dog to a fine of \$25.00 for each violation.

### 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 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 operate, 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. Loudspeakers, amplifiers for advertising. 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 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 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. 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 indicating that a school, hospital, or court is in the vicinity.

Exceptions: Those approved of per Section 3.0404.

#### 12.0303 Penalty Section for Violation of 12.0302-Noncriminal

Any person cited, in accordance with Section 12.0301 and 12.0302, shall be deemed to have committed an infraction of the law, a noncriminal offense, and may appear before the judge to make a statement in explanation of his or her action, or he or she may waive their appearance by not appearing at the hearing. If a person fails to appear at the scheduled hearing, he or she shall be deemed to have admitted to the violation and waived the right to a hearing on the issue.

The court shall impose a monetary fine of \$100.00 for a first offense conviction. The court shall impose a monetary fine of \$500.00 for a second offense that occurs within thirty (30) days of a conviction of a first infraction.

#### 12.0304 Jake Braking (Engine Braking) Prohibited

It shall be unlawful for the driver of any vehicle, including but not limited to motor carriers, trucks, semi-trailers and tractor trailers, to cause their vehicle to brake or slow by

any method which increases the noise emission levels of the engine, including but not limited to the use of compression brakes, commonly known as "jake braking", which use the vehicle's engine compression to reduce the engine's revolutions per minute.

Notice of this section shall be placed at the corporate limits.

Penalty Section: Any person who shall violate any provisions of this section shall be guilty of an offense and subject to a fine of twenty-five dollars (\$25.00) for the first violation and fifty dollars (\$50.00) for the second and each subsequent offense.

#### ARTICLE 4 – AUTOMOBILES – PERSONAL PROPERTY

##### 12.0401 Definitions

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

- (a) The term "junk" shall include, without limitation, parts of machinery or motor vehicles, unused furniture, stoves, or other castoff material of any kind, whether or not the same could be put to any reasonable use.
- (b) The term "junk automobile" 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 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.
- (c) 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. (see section 12.0416)
- (d) 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 used or intended.
- (e) 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.
- (f) The term "person" shall include all natural persons, firms, 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.
- (g) The terms "trash" and "rubbish" shall include any and all forms of debris not herein otherwise classified.

##### 12.0402 Storage of Junk, Junk Automobiles, etc., Contrary to Public Health 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 Oakes 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. This includes motor vehicles and personal property which constitutes an obstruction to, hazard or detriment to public traffic, snow removal operations, which may be abandoned or unclaimed within the City of Oakes. These items are declared a nuisance and dangerous to public safety and shall be abated as set out herein.

12.0403 Unlawful to Store or Accumulate Junk Automobiles, Etc.

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

12.0404 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, an abandoned vehicle, or otherwise, or any appliance or machinery, except in a completely enclosed building, or upon the business premises of a duly license second hand goods or junk gatherer.

12.0405 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 Oakes, and unless such construction is completed within a reasonable time.

12.0406 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 Oakes and unless such construction is completed within a reasonable time.

12.0407 Removal of Discontinued Business Identification

It shall be unlawful for the owner or tenant of property to allow any advertising, signs, or other identification of a discontinued or closed business or trade to remain upon the premises or to remain elsewhere within the City limits more than 60 days after a business is discontinued or closed.

12.0408 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 the property involved in such storage (all of whom are hereinafter referred to collectively as "owners"), shall jointly and severally abate the nuisance by the prompt removal of the 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.

12.0409 Abatement – Failure to Abate After Notice – Penalty

If said person allows said nuisance to exist, or fails to abate said nuisance, that person shall be assessed a fee of twenty-five (\$25.00) for the first violation and for each subsequent violation within 6 months from the first offense double the fine up to five-hundred (\$500.00) plus any costs related to the violation. Any person may request a hearing with the District Court within 14 days notice of issue of citation. A separate violation shall be deemed committed on each day during or on which such nuisance is permitted to exist.

12.0410 Police Department or Street Department May Remove Junk, Abandoned Vehicles, Etc.

The Police Department or Street Department may remove or cause to be removed any trash, rubbish, junk, building materials, junk automobiles, abandoned vehicles, or parts of either, or discontinued business identification, from any private property after having notified in writing the owner or occupant of such property of its intention to do so at least 48 hours prior to such removal. Such notice by the Police Department 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, and shall require such removal within not less than 48 hours but not more than 30 days after the service or posting of such notice. Such trash, rubbish, junk, building materials, junk automobiles, abandoned vehicles or part of either shall be removed and disposed of in accordance with the law. Such removal by the Police Department or Street Department shall not excuse or relieve any person of the obligation imposed by this ordinance to keep his property free from storage or accumulation of any trash, rubbish, junk, building materials, junk automobiles, abandoned vehicles, or parts of either, not from the penalties for violation thereof.

12.0411 Assessment of Cost

Whenever the owner or occupant of property has failed to comply with the notice and requirement to remove or cause to be removed any items referred to in this ordinance, and the City of Oakes by its Police Department or other departments has removed the same, the owner or occupant of such property shall be billed for the cost thereof by the municipality, and if such payment is not made when due, the same may be assessed against the premises on which such work is done and collected and returned in the same manner as other municipal taxes are assessed, certified, collected and returned, pursuant to NDCC 45-05-01.1

12.0412 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 section 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 the official newspaper of the city. 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 AM and 5:00 PM 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 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.

#### 12.0413 Removal and Impoundment Proceeds

Within thirty (30) days after a sale, the person making the sale shall make out, in writing, and file with the City a full report of the sale, specifying the property sold, the amount received therefore, the amount of costs and expenses and the disposition of the proceeds of the sale. The proceeds arising from the sale shall be delivered to the city auditor and credited to the general fund.

#### 12.0414 Severability

This ordinance and the various parts, sections and clauses thereof, are hereby declared to be severable. If any part, section, paragraph, sentence, clause, phrase or word is judged unconstitutional or invalid by any court of competent jurisdiction, it is hereby provided that such adjudication shall not affect, impair, or invalidate the remainder of this ordinance.

#### 12.0415 Statement of Intent by City Council, City of Oakes, Concerning Abandoned Motor Vehicles

Abandoned motor vehicles constitute a hazard to the health and welfare of the people of the state in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens. Abandoned motor vehicles and other scrap metals also constitute a blight on the landscape of the estate and therefore, a detriment to the environment. The abandonment and retirement of motor vehicles and other scrap metals constitutes a waste of a valuable source of useful metal. It is therefore in the public interest and the intent of the legislative assembly that the present accumulation of abandoned motor vehicles and other scrap metals be eliminated, that future abandonment of motor vehicles and other scrap metals be prevented, that the expansion of existing scrap recycling facilities be developed, and that other acceptable and economically useful methods for the disposal of abandoned motor vehicles and other forms of scrap metal be developed.

#### 12.0416 Definitions for Abandoned Automobiles

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Abandoned motor vehicle" means a motor vehicle, as defined in Section 12.0401(c), that has remained for a period of more than forty-eight (48) hours on public property illegally or lacking vital component parts, or has remained for a period of more than forty-eight (48) hours on private property without consent of the person in control 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 licensed under NDCC 39-26-10. An antique automobile, as defined in NDCC

- 39-04-10.4, and other motor vehicles to include parts car and special interest vehicles, may not be considered an abandoned motor vehicle within the meaning of this chapter.
2. "Collector" means the owners of one or more special interest vehicles who collects, purchases, acquires, trades or disposed 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.
  3. "Department" means the state department of health.
  4. "Parts car" means a motor vehicle generally in non-operable condition which is owned by the collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle.
  5. "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.
  6. "Unit of government" includes a state department or agency, a county, city, township, or other political subdivision.
  7. "Vital component parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but no limited to the motor, drive train, and wheels.

#### 12.0417 Custody of Abandoned Vehicle

Units of government may take into custody and impound any abandoned motor vehicle.

#### 12.0418 Conditions Under Which an Abandoned Vehicle May Be Sold Immediately

When 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 North Dakota 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 NDCC 39-26-10, and is not subject to the notification, reclamations, or title provisions of this chapter.

#### 12.0419 Notice to Owner of Abandoned Vehicle

1. When an abandoned motor vehicle does not fall within the provisions of Section 12.0418, the unit of government taking it into custody shall give notice of the taking within ten (10) 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 12.0420, 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 sale of the vehicle at a public auction pursuant to Section 12.0421.
2. The notice must be sent by mail 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.

#### 12.0420 Right of Owner to Reclaim Abandoned Vehicle

1. The owner, secured parties, or any lienholder of an abandoned motor vehicle has a right to reclaim such vehicle from the unit of government taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within fifteen (15) days after the date of the notice required by Section 12.0419.
2. Nothing in this chapter may be construed to impair any lien of a garagekeeper under the laws of this state or the right of a lienholder or secured parties to foreclose. For the purposes of this section, "garagekeeper" is an operator of a parking place or establishment, an operator or a motor vehicle storage facility, or an operator of an establishment of the servicing, repair, or maintenance of motor vehicles.

#### 12.0421 Public Sale – Disposition of Proceeds

1. An abandoned motor vehicle not more than seven model years of age taken into custody and not reclaimed under Section 12.0420 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 department 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 unit of government shall reimburse itself the cost of towing, preserving, and storing the vehicle, and all notice and publication costs incurred pursuant to 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 (90) days and then must be deposited in the state treasury as provided in Section 1 of Article IX of the Constitution of North Dakota and credited to the permanent school fund.

#### 12.0422 Disposal of Vehicles not Sold

Where no bid has been received for an abandoned motor vehicle, the unit of government may dispose of it pursuant to contract under NDCC 39-26-10 as amended.

#### 12.0423 Storage of Vehicles by Collector – Limitations

A collector may store unlicensed, operable or in-operable, vehicles and parts cars on the collector's property provided the vehicles and parts cars and the outdoor storage area are 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 means.

ARTICLE 5 – NOXIOUS WEEDS12.0501 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 reeobs*, abd *Humenophysa pubescens*), dodder, or any similar unwanted vegetation.

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 over eight (8) inches and grass over five (5) inches in height.

12.0503 Notice to Destroy

The City Auditor 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 over eight inches or any grass over five inches in height 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 first class 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 (5) days to cut or destroy the noxious weeds or grass. Absentee owners will be required to maintain property for the full growing season or the City will assess costs as specified in this section.

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 grass 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, provided the same was properly addressed to the last known address of such owner or agent, the City is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or grass or to order their removal by employees or authorized agents.

12.0505 Cost Assessed to Property

When the City has effected the removal of such noxious weeds or grass 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 grass 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.