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CHAPTER ELEVEN
PUBLIC NUISANCES

ARTICLE 1 – Sanitary Nuisances

11.0101 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.

11.0102 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 11.0101.

11.0103 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 11.0101, 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 11.0101.
3. Each private sewage system or private water supply hereafter altered or constructed shall conform to the State Health Department Standards.

11.0104 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.

11.0105 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.

11.0106 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.

11.0107 Water Pools – Putrid Substances

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

11.0108 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, offal or 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.

11.0109 Impure Water

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.

11.0110 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.

11.0111 Breeding Places for Flies

The accumulation of manure, garbage or anything whether in which flies may breed.

11.0112 Stagnant Water

Any excavation in which stagnant water is permitted to collect.

11.0113 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.

11.0114 Rodents

Accumulation of junk, old iron, automobiles or parts thereof, or anything whatever in which rodents may live or breed or accumulate, or collection of branches or stumps.

11.0115 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 prohibited, except that the use of commercial grills, commercial burning pits, man-made burning pits as approved by city council, fireplaces or wood burning stoves shall be permitted subject to the requirements that the fire be properly contained, managed and supervised, that the person assume responsibility for all damages that result therefrom, and that all resultant embers shall be extinguished and the hot ashes removed or wet down at the close of said fire.

Organized groups, clubs, associations and societies' with approval of the City Council shall be able to obtain a permit to have a bonfire at a special event. Said permit shall contain the following:

1. Organization's Name
2. Location of Bonfire
3. Event duration
4. Approval by the chief of the Rural Fire District

Event applicant shall be subject to the requirements that the fire be properly contained, managed and supervised, that the person assume responsibility for all damages that result therefrom, and that all resultant embers shall be extinguished and the hot ashes removed or wet down at the close of said fire.

11.0116 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.

11.0117 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; 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.

11.0118 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.

11.0119 Electrical Generators

The use of generators to supply electricity to any structure within the City of Ellendale 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 public 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.

11.0120 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.

Penalty: The penalty for violation of this Article constitutes an infraction and is punishable by a fine as set forth in Section 1.0104 herein.

ARTICLE 2 – Smoke – Gases

11.0201 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.

11.0202 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

11.0301 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.

11.0302 Loud, Disturbing, Unnecessary Noises – Prohibited

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

1. The sounding of horns or signaling devices on any motor vehicle or motorcycle on any street or public place except as a danger warning.
2. 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 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 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 indicating that a school, hospital, or court is in the vicinity.

ARTICLE 4 – Automobiles – Personal Property

11.0401 Definitions

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 recreational 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 thirty (30) days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of thirty (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.
3. The term "abandoned vehicle" shall include, without limitation, any vehicle 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 duly licensed under section §39-26-10. An antique automobile, as defined in section §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.
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, electrical 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, 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.

7. The terms "trash" and "rubbish" shall include any and all forms of debris and waste material not herein otherwise classified.

11.0402. 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 Ellendale 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.

11.0403. Unlawful to store or accumulate.

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 Ellendale 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.

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. 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, public health, or which may be abandoned or unclaimed with the City, is hereby declared to be a nuisance.

E. 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.

F. Any police officer who has reasonable grounds to believe that a vehicle or any other item has been abandoned or is otherwise in violation of this Article may remove the vehicle or item, or cause it to be removed, at the expense of the owner, to the nearest garage or other place of safety.

G. In the event a vehicle or other item is not reclaimed along with full payment of all fines, fees and/or costs associated with such vehicle or other item, by the registered owner or owner or any lien-holder within ninety (90) days, the vehicle or other item may be disposed of as provided in this Article or as provided for by the laws of this state governing the disposition of abandoned property in the sole discretion of the City. The City may offer such items for sale to the highest and/or best bidder and shall provide a bill of sale/bill of transfer to anyone who purchases any item sold by the City and to the extent permissible under State law such transfer documentation shall be conclusive evidence of ownership and title of the item.

11.0404. Unlawful to dismantle motor vehicles.

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, machinery or recreational vehicle, except in a completely enclosed building, or for a period less than thirty (30) days, or upon the properly zoned business premises of a duly licensed: junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or dealer junk gatherer.

11.0405. 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 Ellendale, and unless such construction is completed within a reasonable time. This section shall not make otherwise dangerous or nuisance structures legal.

11.0406. 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 that is properly zoned for such activity(ies), 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 Ellendale, and unless such construction is completed within a reasonable time, not to exceed 90 days.

11.0407. City may remove—Notice to property owner.

A. The city of Ellendale may remove or cause to be removed any trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, blighted structures, or parts of either, or any other item determined to be in violation of this Article 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 ten (10) 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 ten (10) days, it will be removed by the city and the cost thereof will be assessed against the real property described in the notice.

B. 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 service of the notice is by mail, three (3) additional days shall be allowed for mailing time.

C. If such trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, blighted structures or any other violation of this Article has not been removed by the owner within the time specified, it shall be removed by the city and disposed of forthwith. If any abandoned vehicles have not been removed by the owner within the time specified, such abandoned vehicles shall be removed and disposed of as provided in §11.0403 of this article.

D. 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 violation of this Article including without limitation storage or accumulation of junk, junk automobiles or abandoned vehicles, or parts of either, nor from the penalties for violation thereof.

11.0408. Appeal to city council.

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 city council by filing with the City Auditor, a notice of appeal, in writing. Such appeal must be filed within ten (10) days of receipt of the notice for removal and before the deadline within which the owner is otherwise required to remove the trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, or blighted structures, or otherwise become in compliance with this Article. Upon receipt of such notice, the city will set a hearing date at a time, to be heard at the next occurring regularly scheduled monthly city council meeting at which time the matter will be heard.

11.0409. Transfer to other property.

In the event that any trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, blighted structures or any other violation of this Article are identifiable and are moved or transferred from one parcel of real property to another after receipt of the notice provided for in §11.0407 of this article, a new notice shall not be required and the identifiable trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, or blighted structures may be removed by the city as provided in §11.0407 of this article and the costs assessed against the property upon which it was located at the time the notice was given.

11.0410. Abatement of nuisance—Penalty.

The cost of removal of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, blighted structures or any other violation of this Article 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.

If the owners allow a nuisance to exist or fail to abate a nuisance they, and each of them upon conviction thereof, shall be fined pursuant to Section 1.0104 herein and a separate infraction shall be deemed committed on each day during or on which the nuisance is permitted to exist.

11.0411. Removal, Impoundment, and Sale by City.

As an additional remedy and procedure in the discretion of the City, if not reclaimed and redeemed along with full payment of applicable fines, fees and costs 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 §11.0401 may be sold and disposed of by the city of Ellendale in the manner hereinafter provided.

1. Notice that such property will be sold shall be published once, at least six (6) days prior to the sale, in the official newspaper.
2. Such notice shall specify a description of the property to be sold and the time and place of sale.
3. Any sale may be postponed or discontinued by public announcement at the time of the sale where there are not bidders or when the amount offered is grossly inadequate, or for other reasonable cause.
4. The City may become a purchaser of any or all property at the sale.
5. The purchaser shall be given at the sale a certificate of purchase of such property.
6. 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.
7. The proceeds arising from the sale shall be delivered to the city auditor and credited to the general fund.

ARTICLE 5 – Noxious Weeds - Grass

11.0501 Definition

Whenever used in this section, 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 roeobs*, and *Humenophysa pubescens*), dodder, or any similar unwanted vegetation.

11.0502 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.

11.0503 Grass Over Five Inches in Height 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, grass in excess of five inches in height.

11.0504 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 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 11.0506.

11.0505 Action Upon Non-Compliance

Upon the failure, neglect, or refusal of any owner or agent to cut, destroy and/or remove such 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 11.0504 or within five (5) 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 Auditor 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 the City.

11.0506 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 City Council. 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.

11.0507 Penalty for Violation for non-compliance with Noxious Weeds – Grass

Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of an infraction and, upon conviction thereof by a court of competent jurisdiction, shall be subject to a fine of not less than one hundred dollars (**\$100.00**) for a first offense, not less than two hundred dollars (\$200.00) for a second offense and not less than three hundred dollars (\$300) for a third or subsequent offense within 7 years.