

Bottineau Municipal Code Revised

Chapter Twelve

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Chapter Twelve

Public Nuisances

ARTICLE 1 – Sanitary Nuisances

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 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 Superintendent.

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 Superintendent. 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. 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 are hereby declared to be a public nuisance.

ARTICLE 2 – Smoke – Gases

12.0201 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.
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 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.

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:

1. The term “junk” shall include, without limitation, 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 sixty days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of ninety 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 forty-eight continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of forty-eight continuous hours or more after the consent of the owner or occupant has been revoked.

4. The term “building materials” shall include, without limitation, lumber, bricks, concrete or cinder block, 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.

5. 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.

6. 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 and Safety

It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, and the maintenance of blighted structures upon any private or public property within the City of Bottineau tends to result in blighted and deteriorated neighborhoods, the increase in criminal activity, the spread of vermin and disease, and is contrary to public peace, health, safety and general welfare of the community.

12.0403 Unlawful to Store or Accumulate Junk, Junk Automobiles, etc

It shall be unlawful for any person to store, or permit the storage or accumulation of trash, rubbish, junk, junk automobiles or abandoned vehicles on any private or public property in the City of Bottineau except within a completely enclosed building or upon the business premises of a junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods, or junk gatherer having a place of business which complies with the zoning ordinances of the City of Bottineau.

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 automobiles, whether or not the same be a junk automobile, abandoned vehicle, or otherwise, or any appliance or machinery, except in a completely enclosed building, or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer.

12.0405 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 or public 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 Bottineau, and unless such construction is completed within a reasonable time.

12.0406 Notification before Enforcement

The City must notify, in writing, the owner of any lot, place or area within the City that within five (5) days after receipt of the notice the owner must abate the nuisance described in the notice. The notice shall specify the legal description of the premises and shall set forth, if possible, the street address of the premises and a brief summary of the nuisance to be abated. Such notice shall be served personally, or by certified mail, upon the owner or occupant of the property, if occupied, or may be posted in a conspicuous place upon vacant or unoccupied property. If after having been given notice, the person fails to abate the nuisance, they shall, upon conviction, be punished in accordance to Section 12.0411 of this ordinance. Enforcement of this ordinance shall not excuse or relieve any person of the obligation imposed by this ordinance to keep their property free from storage or accumulation of junk automobiles or abandoned vehicles, or parts of junk automobiles or abandoned vehicles, or parts of either, or junk, trash or rubbish, nor from the penalties for violation thereof. Each day an owner fails to abate the nuisance after having been given the notice described herein, may be deemed a separate violation.

12.0407 Removal of Junk Automobiles Abandoned Vehicles Junk, Trash and Rubbish From Public Property

The police department may remove or cause to be removed any junk automobiles, abandoned vehicles, or parts of either, or junk, trash and rubbish placed on any public property or street or alleys, after having notified, in writing, the owner or occupant of the property adjacent to or near said junk automobiles, abandoned vehicles, junk, trash or rubbish, and the person causing said items to be placed on the public property, streets or alleys, if known, of its intention to do so at least twenty-four hours prior to such

removal. If in the opinion of the police department such items are causing a public nuisance or inconvenience by being on the public property, street, or alley, notice may be dispensed with and the property removed immediately. Such notice shall be served personally or may be posted in a conspicuous place upon vacant or unoccupied property which is adjacent or near said items. Such junk automobiles or abandoned vehicles or parts of either shall be removed to the automobile impound and disposed of in accordance with law. All other junk, trash, or rubbish may be hauled to the public dumps. The cost of any removal or disposal of items under this section shall be assessed against the adjacent or property near or owned by the person causing the placement of said undesirable items as provided for in Section 12.0408 of this ordinance.

12.0408 Cost of Improvement Taxed Against Property

The cost of any removal of junked motor vehicles, abandoned vehicles or any other materials for which removal is provided under the provisions of this ordinance, and the cost of any sanitation improvement required by this ordinance, shall, where applicable, be charged back against the property from which such junk materials, junked or abandoned automobile or debris was removed, to the extent that the entire cost of such abatement of said nuisance shall become a special assessment against such property. Such special assessment shall be levied and assessed against the property involved by the City Council.

12.0409 Auto Wrecking or Junkyard

"Auto wrecking or junkyard" means any place where two or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storage of such motor vehicles or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging and scavenging of any other goods, articles or merchandise.

12.0410 Fencing of Junkyard Required

No material shall be piled or stored in the area comprising the premises upon which a license is issued for a junkyard unless a tight board fence not less than six feet high and securely built shall be erected so as to completely enclose the yard or place where such piling or storing is to be done. The gates or places of access to such place where such material is to be piled or stored shall likewise be constructed of board and shall be of equal height as the fence herein required. Such gates or places of access, shall not be constructed closer than one foot from the property line, shall at all times be kept and maintained in a good state of repair and no signs or advertising shall be painted or placed thereon or attached thereto; provided, however, that where any railway spur is located within the confines of such junkyard and where such spur is used for the transportation in and out of such yard, any part of the fence herein provided for which is within fifty feet of such spur track may be built of tightly woven wire fence, of the same height as the board fence required herein and of such texture that the operation of any railway equipment within such fence may be observed from the outside.

12.0411 Penalty

Any person, firm or corporation violating any of the terms or provisions of this ordinance shall, upon conviction, be punished by a fine of up to, but shall not exceed \$500.00.

ARTICLE 5 - Noxious Weeds

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, perennial Sow-Thistle, Quack Grass, Leafy Spurge (Euphorbia Esula or Ruphrobia Virgata), Field Bindweed, Russian Knapweed (Centaurea Picris), Hoary Cress (Lapidium Draba, Lepidium Reoebis, and Humenophysa Pubescens), Dodder, Absinth Wormwood, Hemp, Musk

Thistle, Spotted Knapweed, Yellow Starthistle, Purple Loosestrife, or any similar unwanted vegetation over eight inches in height.

1. Whenever used in this Ordinance, the term "City" shall mean the City of Bottineau, North Dakota.

2. Whenever used in this Ordinance, the term "shall" is always mandatory and not merely directory.

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 Forester 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 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 registered or certified mail, addressed to said owner or agent of said owner at their last known address, and shall allow such person a minimum of five (5) days to cut or destroy the noxious weeds.

12.0504 Action Upon Noncompliance

Upon the failure, neglect, or refusal of any owner or agent to cut or destroy and/or remove noxious weeds found 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 Section 12.0503 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 Forester 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 Costs 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 the owner prior thereto, shall be challenged 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. 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.

12.0506 Grass and Weeds Not to Exceed 8 Inches - Notice and Removal

Be it known that property owners of the City shall mow weeds or grass, before they exceed eight (8) inches tall. This pertains to properties within the City and to those within 1/2 mile of the City limits.

If the weeds or grass on a property is determined to be in excess of eight (8) inches tall, such notice shall be given to the property owner as provided for in Section 12.0503 of this Ordinance to bring their property into compliance. If the property owner fails thereafter to comply with the notice to mow their weeds or grass, the same action may be taken as provided for in Section 12.0504 above, and the cost of such work shall be assessed against the property.