

AN ORDINANCE REGULATING PUBLIC (JUNK) NUISANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUFFALO, NORTH DAKOTA:

PURPOSE: The purposes and objectives for which this Ordinance is passed include the following:

- To protect the citizens and residence of the City of Buffalo from inherently dangerous automobile graveyards and junkyards.
- To preserve the dignity and aesthetic quality of the environment in the City of Buffalo.
- To preserve the physical integrity of land in close proximity to churches, schools, and residential areas.
- To achieve responsible economic growth in areas of the City of Buffalo that is compatible with growth and development in nearby areas.
- To protect the City of Buffalo's water quality and environment.

SECTION 1. NUISANCES – DEFINED. In all cases where no specific provision is made defining what is a nuisance and how the same may be removed, abated or prevented, in addition to what may be declared such herein, those offenses which are known to common law of the land and the statutes of North Dakota as nuisances may, in case the same exist within the City of Buffalo, be treated as nuisances, and, in addition to those remedies otherwise provided by law, may be proceeded against as in this chapter, provided or in accordance with any other law which shall give the Court hearing the same jurisdiction.

SECTION 2. NUISANCES PROHIBITED - PERSONS DEFINED. No person, as owner or occupant of any lot or tenement, shall cause or permit any nuisance to be or remain in or upon any such lot or tenement or between the same and the center of the street or alley adjoining. For purposes of this Title, the term "person" includes, where relevant, corporations, unincorporated associations, or other legal entities. For purposes of this Title, words used in the singular include the plural, and the plural, the singular. Words in the masculine gender include the feminine and neuter genders.

SECTION 3. DEFINITIONS. Whenever used in this Title, each of the following words and phrases shall have the meaning ascribed to it:

1. "Garbage" shall mean all manner of kitchen and table refuse and offal, including decayed fruit, animal and vegetable matter, manure, metal cans, and other foreign waste matter.
2. "Noxious Weeds" shall include noxious vegetation and unhealthy vegetation.
 - (a) The term "noxious vegetation" shall mean and include all weeds, of the kinds known and Canadian thistle, sow thistle, quack grass, leafy spurge ("Euphorbia esula or Euphorbia virgate"), field bindweed, Russian knapweed ("Centaurea Picris"), hoary cress, ("Lepidium draba, Lepidium repens and Hemenophysa

pubescens”) and dodder.

- (b) The term “unhealthful vegetation” shall mean and include all vegetation which is in such a state of growth as to constitute a health hazard and/or which is conducive to the breeding of disease.
- 3. “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 cast-off material of any kind, whether or not the same could be put to reasonable use.
- 4. “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 (60) days, and shall also include whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of sixty (60) days, provided however, that expected from this definition are unlicensed but operative vehicles which are kept in a fully-enclosed lawful garage or other building, and/or fence that completely shields the inoperable or junk vehicle or motor vehicle from view on all sides.
- 5. “Abandoned vehicle” shall include, without limitation, any vehicle which has remained on private property for a period of forty-eight (48) continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.
- 6. “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 material used in constructing and structure.
- 7. “Demolition materials” shall include, without limitation, debris resulting from the demolition of buildings; such as concrete, stone, plaster, bricks, concrete blocks, and other materials that are a result of demolition and construction operations.
- 8. “Earth material” shall include any rock, gravel, natural soil or fill or any combination thereof.
- 9. “Hazardous Waste” means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form which (a) because of its quantity, concentration, or physical, chemical, or other characteristic, in the judgment of the North Dakota State Health Department may (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, disposed of, or otherwise managed; or (b) is identified by the mechanisms

established in this chapter. Such wastes include, but are not limited to, those which exhibit extraction procedure (EP) toxicity, corrosivity, ignitability, or reactivity. The definition of hazardous waste above shall automatically be amended to adopt any amendments to Section 23-20.3-02(5), North Dakota Century Code, and any such amendments shall be of the same force and effect as if fully set out in this Ordinance.

10. “Trash and rubbish” shall include any and all forms of debris not herein otherwise classified.
11. “Duly Licensed” to describe business/dealers as those whom conduct sales and are registered with the State of North Dakota and possess a Sales/Use tax permit. All paperwork must be posted as required by North Dakota law and available upon request.
12. “Motor Vehicle” shall include any machine designed or intended to travel over land, sea or air by self-propulsion or while attached to any self-propelled vehicle, i.e. trailer, travel trailer.

SECTION 4. SANITARY NUISANCES.

1. **PUMPING SEWAGE INTO OPEN GROUND PROHIBITED.** It shall be a nuisance and offense for any person to pump the contents of any cesspool or septic tank or privy vault or other receptacle for the disposal of sewage upon the ground or into any open ditch or drainage course or to dispose of sewage in any manner other than depositing the same in sewers, privy vaults, cesspools, septic tanks, or similar receptacles or by having said sewage or the contents of any of said receptacles hauled to someplace far enough from the platted portions of this City so as to not create any offensive odor or be a menace to health, and there to dispose of the same by the use of fire, chemicals, or other methods best suited to eliminate odor, destroy pathogenic bacteria and flies.
2. **PRIVIES AND SEPTIC TANK NUISANCES.** It shall be a nuisance and offense for the subsurface contents of any privy to be above the surface or within two (2) feet of the surface of the earth; and all other privies and all septic tanks that are foul and emitting smells and odors.
3. **HARBORAGE FOR RATS PROHIBITED.** It shall be a nuisance and offense for any person to accumulate on any premises, improved or vacant, and on all open lots and alleys in the City of Buffalo, any lumber, boxes, barrels, bricks, stones or similar materials that may be permitted to remain thereon unless the same shall be placed on open racks that are elevated not less than six (6) inches from the ground, and evenly piled or stacked so that these materials will not afford harborage for rats.

4. **DECAYED ANIMAL MATTER NOT TO RAMAIN IN THE CITY.** It shall be a nuisance and offense for any person having ownership or control of any animal matter which is unsound or in process of decay within the City of Buffalo, to permit the same to be and remain, while in such condition, within said City, or within one (1) mile of the limits thereof, more than twelve (12) hours after such animal matter shall have become unsound, or after the process of decay shall have begun in the same, whether it be at any establishment for the rendering or changing the character thereof, or elsewhere within the said City, or within one (1) mile of the limits thereof.
5. **CASTING, THROWING OR DEPOSITING GARBAGE IN PUBLIC PLACES PROHIBITED.** It shall be a nuisance and offense for any person to cast, throw, deposit, or allow to accumulate in or upon any street, alley or other public place or in any ditch adjacent to any street, alley or other public place, any ashes, tin cans, garbage, rubbish, manure or refuse of any kind.
6. **ACCUMULATION OF RUBBISH AND GARBAGE IN CITY LIMITS PROHIBITED.** It shall be a nuisance and offense for any person to permit or suffer to accumulate in or about any yard, lot, place or premises, or upon any street, alley, sidewalk or City property, adjacent to or abutting upon any lot, block, place or premises owned or occupied by him within the City limits, refuse, vegetables, decayed or decaying substances, garbage, paper, rubbish, manure, dead animals or ashes or filth of any kind nor suffer such yard, lot, place or premises to be or in such condition. Provided, however, that such section shall not preclude a person from maintaining a compost heap on property owned or leased by that person from materials obtained from that property and to be used on that property.
7. **STAGNANT WATER, DUTY TO DRAIN.** It shall be a nuisance and offense to allow stagnant water to stand or remain along the line of any railroad, street, highway, alley, public place or along or upon any land within the City of Buffalo. It shall be the duty of all persons having, using, occupying land, either as owners, tenants, or having control thereof as agents or otherwise, to remove or drain or cause to be removed or drained all water there from, and upon order of the Building Inspector to take all necessary steps to permanently alleviate the problem, including, but not limited to, filling the area in which the stagnant water is or has been standing.

SECTION 5. NOXIOUS WEEDS PROHIBITED. It shall be a nuisance or offense for any person owning or occupying any lot or tenement in the City of Buffalo, to grow thereon any noxious vegetation and /or unhealthful vegetation.

SECTION 6. FARM ANIMALS AND DOMESTIC FOWL PROHIBITED. It shall be a nuisance and offense for any person or persons to keep any live swine or pigs, cattle, goats, sheep, horses, or other similar farm animals, or such domestic fowl as chickens, ducks, geese or turkeys within the limits of the City.

SECTION 7. JUNK, JUNK AUTOMOBILES, BUILDING MATERIALS-STORAGE OR ACCUMULATION CONTRARY TO PUBLIC HEALTH AND WELFARE. It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, upon any private property within the City of Buffalo, tends to result in blighted and deteriorated neighborhoods, the increase of criminal activity, the spread of vermin and disease, and is contrary to the public peace, health, and safety and general welfare of the community.

1. **UNLAWFUL TO ACCUMULATE ABANDONED VEHICLES AND JUNK.** It shall be a nuisance and offense for any person to store or permit the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, appliances, or etc. on any private property in the City of Buffalo except within a completely closed building or upon the business premises of a duly licensed motor vehicle/recreational vehicle, duly licensed dealer in used motor vehicle/recreational vehicle, duly licensed dealer in secondhand goods, and/or duly licensed dealer in scrap iron, within Commercial or Industrial zoned areas within the City of Buffalo. Exception only granted for Commercial/Industrial zoned areas, prohibited in Residential zoned area.
2. **UNLAWFUL TO DISMANTLE AUTOMOBILE – EXCEPTION.** It shall be a nuisance and offense for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same be a junk automobile, abandoned vehicle or otherwise, or any appliance or machinery except in a completely closed building or upon the business premises of a duly licensed motor vehicle/recreational vehicle, duly licensed dealer in used motor vehicle/recreational vehicle, duly licensed dealer in secondhand goods, and/or duly licensed dealer in scrap iron, within Commercial or Industrial zoned areas within the City of Buffalo. Exception only granted for Commercial/Industrial zoned areas, prohibited in Residential zoned areas. In addition, a fence must be erected, allowing for zero visibility from adjacent properties, fence must fall under “condition use” within the Zoning ordinance of the City of Buffalo. A building permit would be required from the City of Buffalo, and all rules of said permit shall be enforced.
3. **UNLAWFUL TO STORE BUILDING MATERIALS – EXCEPTION.** No motor vehicle/recreational vehicle or trailer shall be considered a storage “facility” unless completely enclosed, and contents are not visible. It shall be a nuisance and offense 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 Buffalo, and unless said construction is completed within a reasonable period of time.

SECTION 8. ABANDONED AUTOMOBILES – UNCLAIMED PERSONAL PROPERTY – NUISANCE. Any motor vehicle, animal or other article of personal property, located within the City of Buffalo, the use, condition or status of which is in violation of any ordinance of the City of Buffalo, or any law of the State of North Dakota, and constitutes an obstruction, hazard or detriment to public traffic, snow removal operations, public safety of public health, or which may be damaged, disabled or otherwise involved in an accident, or in the commission of any violation of any ordinance of the city of Buffalo or any law of the State of North Dakota, or any vehicle or other article of personal property abandoned or unclaimed within the City of Buffalo, is hereby declared to be a nuisance.

1. **REMOVAL AND IMPOUND.** The City Council or any person acting on behalf of the City Council, shall remove or cause to be removed to City Hall, or other place designated by the City Council, any personal property described in the immediately preceding paragraph and may impound and retain the same until expense of the removal, storage and impounding fee, if any, is paid, together with the amount of any fine, costs, bail or other claims of the City of Buffalo against the owner, or other person lawfully entitled to the possession thereof the provisions of Section 12 notwithstanding.
2. **IMPOUND PROPERTY; WHEN HELD AND SOLD.** If not reclaimed and redeemed by the true owner or the person lawfully entitled to possession thereof within a period of sixty (60) days after impounding, any article or personal property described in the first paragraph of this section may be sold and disposed of by the City of Buffalo.
3. **REPORT TO CITY AUDITOR, DISPOSITION OF PROCEEDS.** Within thirty (30) days after such sale, the person making the sale shall make out in writing, and file with the City Auditor of Buffalo, a full report of such sale specifying the property sold, the amount received therefore, the amount of costs and expenses, and the disposition made by him of the proceeds of the sale. The proceeds arising from such sale shall be delivered to the City Auditor of Buffalo and credited to the General Fund.

SECTION 9. SNOW AND ICE REMOVAL – SIDEWALKS – NUISANCES. It shall be a nuisance and offense for any person, as owner or occupant of any lot or tenement, to allow snow or ice to accumulate and remain upon any public sidewalk which abuts such lot or tenement.

SECTION 10. SNOW AND ICE REMOVAL – PUBLIC STREETS – NUISANCES. It shall be a nuisance an offense for any person to allow a motor vehicle or other article of personal property to obstruct, prevent or otherwise hinder the removal of snow and ice from the public street, alley or other roadway customarily used for travel. The provisions of Section 8 to the extent relevant, shall apply to the removal or abatement of such nuisance.

SECTION 11. DUMPING – EXCAVATION – NUISANCE.

1. Dumping defined – for purposes of this section, dumping shall mean placing, burying or storing on, underneath or upon any land.
2. Within the City limits of Buffalo it shall be deemed a nuisance for any person to engage in dumping or any landowner, tenant or occupant to permit dumping of hazardous wastes except that hazardous wastes may be stored above ground if that person first obtains a permit from the North Dakota Department of Health pursuant to Chapter 23-20.3, North Dakota Century Code.
3. Within the City limit of Buffalo it should be deemed a nuisance for any person to engage in dumping or any landowner, tenant or occupant to permit the dumping of garbage, junk, building materials, demolition materials, trash, and rubbish unless the dumping is at a dump site for which the Board of Adjustment has granted a permit pursuant to the zoning regulations of the City of Buffalo, or unless a permit to use certain material for fill is first obtained from the Building Inspector.
4. Within the City limits of Buffalo it shall be deemed a nuisance for any person to engage in dumping or any landowners, tenants, or occupants to permit the dumping of earth material without first obtaining a permit from the Building Inspector. Provided that no permit is necessary where the quantity of earth material is less than one-hundred (100) cubic yards and the earth material when placed does not exceed one (1) foot in depth. Provided further that permit is needed when the person has first obtained a building permit and the dumping of earth material is connected with the project for which a building permit was granted.
5. The City Council of Buffalo is hereby given the authority to prohibit and to stop dumping by any person within the City limits of Buffalo unless and until the person or persons stopped from dumping can establish to the satisfaction of the City Council that such dumping is permitted under the Ordinances of the City of Buffalo.

SECTION 12. NOTICE TO REMOVE NUISANCES. Except where otherwise provided in this chapter, if any person within the limits of the City of Buffalo shall permit or suffer on his premises or premises of which he may be the occupant, any nuisance the City Council, or such persons authorized by the City Council shall cause notice to be given such person to remove or abate such nuisance. The notice shall set forth specifically the nuisance to be removed and the period of time in which it must be removed. The time period allowed for abating the nuisance shall not be less than forty-eight (48) hours after notice shall be given, provided, however, that the time period may be less if the nuisance has caused or may cause death or injury to any person within the City of Buffalo. Provided further, that the provisions of this section shall in no way abrogate (repeal) or restrict any emergency authority granted to the City Council or other emergency authority delegated to and exercised by persons duly authorized by the city Council.

SECTION 13. FAILURE TO REMOVE – PROSECUTION. If any person, as owner or occupant of any lot or tenement, after notice as provided in Section 12, neglects or refuses to remove or abate the nuisance, the person giving such notice shall notify the City Attorney, who may commence prosecution of the offense in the Buffalo Municipal Court of seek injunctive relief in any courts of the State of North Dakota.

SECTION 14. FAILURE TO REMOVE – CIVIL PENALTY. The City official who sent notice of removal or abatement of a nuisance, may, in addition to the remedies set out in the previous section, if the nuisance is not abated within the time period set out in the notice, send notice to the violator of a hearing to be held by the City Council to determine whether or not City Officials should be directed to abate the nuisance. The violator must be given five (5) days written notice of the time of the hearing. If at that hearing the Council determines that City Officials should abate the nuisance, the Council shall direct employees of the City to do so, and direct that all costs and expenses incurred in that abatement shall be assessed against the property concerned by the City Auditor. Provided, however, if the City Official determines that the nuisance presents a clear and present danger of injury or death to a person in Buffalo, that official can direct City Officials to abate the nuisance immediately without the need for Council action. Once each year, after written notice to all violators, the City Council shall review all such assessments and hear all complaints against the same and approve the assessments as finally determined by the City Council. Such special assessments shall then be certified to the County Auditor and be placed upon the tax roll for that year and to be collected as other taxes. The decision of the City Council or City Official to abate the nuisance in no way relieves the violator of prosecution under the prior section.

SECTION 15. PENALTY. A violation of the regulations contained in this ordinance shall be deemed an offense and shall be punishable by a fine of not to exceed Five Hundred Dollars (\$500). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 16. AUTHORIZED PERSONS. The city Council, or any person designated by the City Council, is hereby authorized by the City Council to send out notices and take other actions as set out in this chapter to abate nuisances.

SECTION 16. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its final passage and publication.

Date of First Reading: August 26th, 1991
Date of Second Reading: October 10th, 1991
Date of Publication: November 17th, 1999

Amended: April 10th, 2017
Amended: May 13th, 2019