

CHAPTER 12
PUBLIC NUISANCES

Article 1
Noxious Weeds

12.0101 Tall Grass and Weeds

As used in this article, the following words and terms, unless the context clearly requires otherwise, shall have the following meanings:

- a. "Garden" shall mean a cultivated and maintained area, not located within a public right-of-way, berm or boulevard, dedicated to growing vegetables, fruits, flowers, ornamental grass, shrubs and similar plants that are planted in a well-defined location.
- b. "Ornamental grass" shall mean grass that is not indigenous to the state, that is intended to add beauty to a garden or natural area. The term shall not include turf grass or weeds.
- c. "Tall grass" shall mean grass predominantly in excess of eight (8) inches in height and shall include all weeds not contained within the North Dakota Administrative Code Section 7-06-01-02 predominantly in excess of eight (8) inches in height. Tall grass shall not include tall grass that exists as part of a cultivated and maintained vegetable garden, flower garden or landscaping display.
- d. "Turf grass" shall mean grass commercially available and commonly used in regularly cut and maintained lawn or play areas, including but not limited to, blue grass, fescue and rye grass blends. Turf grass shall not include ornamental grass.
- e. "Weeds" shall mean volunteer plants that grow or reproduce aggressively or is invasive outside of its native habitat and which tend to overgrow or choke out more desirable plants, crop or lawn. Weeds shall also include "noxious weeds" as defined by the North Dakota Administrative Code Section 7-06-01-02. The term shall also include all plants classified or described as a weed by the United States Department of Agriculture. The term shall also include other plants capable of causing skin reactions upon contact, producing allergic respiratory reactions or posing a fire danger.

12.0102 Purpose

The City hereby finds that tall grass and weeds can have an adverse effect on neighborhoods by providing a refuge for vermin and insects; creating fire hazards; harborage of mosquitoes; production and transmission of spores, pollens and molds; transmission of weeds; retention of litter and debris; creating an appearance of abandoned property; adversely affecting property values; and impairing neighborhood and community aesthetics; among other adverse or blighting effects. The purpose of this article is to secure the public health, safety and general welfare of the city residents, property owners, and visitors by regulating tall grass and weeds.

12.0103 Declaration of Public Nuisance

All tall grass and weeds predominantly exceeding eight (8) inches in height growing within the limits of the city are hereby declared to be a public nuisance, except as otherwise provided herein. It shall be the duty of every person owning, occupying, or in charge of any premises, lot or parcel of land in the city to keep that premise, parcel or lot, including the adjacent right-of-ways, berms and boulevards free from all tall grass and weeds by cutting or destroying them as required herein between April 1 and November 1 of each year. Medians separating street sections shall not be included in the requirements of this article. Tall grass that exists as part of a cultivated vegetable, flower garden or landscaping display shall not be included in the requirements of this article.

12.0104 Violation as Unlawful Act

- a. It shall be unlawful for the owner and/or occupant of any lot or parcel of land to which this article applies to allow or maintain upon any portion of any premises, parcel, lot, adjacent public right-of-way, berm or boulevard any growth of tall grass or weeds as defined herein. Growth of grass to a length predominantly greater than eight (8) inches shall be considered to be a public nuisance for the purposes of this article.
- b. It shall be unlawful for any owner and/or occupant of any lot or parcel of land within the city, to which this article applies, to allow or maintain upon any portion of any premises, parcel, lot, adjacent public right-of-way, berm or boulevard any growth of tall grass or ornamental grass as lawn cover.
- c. It shall be unlawful for the owner and/or occupant of any lot or parcel of land to which this article applies to allow or maintain upon any portion of any premises, parcel, lot, adjacent public right-of-way, berm, or boulevard, any tall grass or ornamental grass in any vegetable garden, flower garden or landscaping display in a condition other than a substantially weed free condition.
- d. It shall be unlawful for the owner and/or occupant of any lot or parcel of land to which this article applies to allow or maintain a garden upon any public right-of-way, berm or boulevard without specific authorization from the City. This prohibition shall not, however, apply to gardens planted or maintained by the city or the Thompson Park District.

12.0105 Exemptions

Property may be exempt from the cutting or mowing requirements listed in this article if approved by the City, or its designee, upon a finding that the exemption is warranted due to safety concerns, environmental concerns, and/or aesthetic benefits which do not unreasonably jeopardize the public health, safety and general welfare of the city residents, property owners and visitors. Conditions or situations in which such an exemption may be granted shall include but not be limited to property that:

- a. Cannot be safely mowed;
- b. Is highly erodible;
- c. Is located in an undisturbed natural area;
- d. Is densely wooded;
- e. Is too wet to mow such as a marsh, wetland, stormwater drainage pond, riverbank, or coulee, either natural or manmade;

- f. Is zoned agricultural and is legally used for bona fide agricultural purposes;
- g. Any lot, parcel or portion thereof upon which construction is occurring.

12.0106 Notice to Abate

Notice to abate a violation of this article shall be given in writing to the property owner or occupant and shall state a specified period of time for abatement by the property owner or occupant. Where the property owner or occupant cannot be found or otherwise given notice by mail, notice to abate a violation of this article may be given by posting a sign in a conspicuous place on the premises.

12.0107 Abatement

Whenever any person, firm or corporation owning, occupying or in charge of any premise, lot or parcel of land within the city limits, shall fail, neglect or refuse to mow or cut the tall grass and weeds in accordance with the provisions of this article or shall fail to eradicate, cut or control weeds or tall grass within five (5) days of mailing of notice by the City or its designee, the City or its designee shall order the nuisance to be abated by eradicating, cutting or controlling the weeds or tall grass in a manner specified by the City or its designee.

12.0108 Right of Entry

The City of Thompson and its authorized agents are hereby empowered and authorized to enter upon any premises or land within the city for purposes of inspecting, eradicating, cutting, removing, destroying or controlling tall grass and weeds prohibited under this article. No person shall molest or interfere with such person or persons while they are engaged in carrying out the provisions of this article.

12.0109 Cutting or Destruction; Assessment of Costs

Whenever any individual, firm, or corporation owning, occupying, or in charge of any premises, lot, or parcel of land within the limits of the city, shall neglect or refuse to comply with the provisions of this article, then it shall be the duty of the City to proceed forthwith to cause such nuisance to be abated by eradicating, cutting, removing, destroying or controlling said tall grass and weeds. The City may proceed to assess and collect the expenses of the abatement of such public nuisance upon the premises, lot or parcel of land upon which the same may be found. The City shall report the amount of abatement expenses charged to various property, including a description of the premises, lot, or parcel of land chargeable therewith, and the name of the owner. Such charges shall include all costs, fees and charges authorized by the City. The City may certify to the county auditor as a special assessment against the property affected, all such costs, charges and fees. The amounts charged for cutting or other abatement of tall grass and weeds shall be determined by action of the City.

12.0110 Publication of Public Notice

The City shall cause to be published in the official newspaper a public notice of the prohibition of the existence of a public nuisance in the form of tall grass and weeds as prohibited by this article. Such notice shall be published once a month during the months of May, June, July and August of each year.

Article 2 Sanitary Nuisances

12.0201 Residences - 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 sewer and water facilities and mains.

The term "Proper Connections" when used in this section shall be constructed to mean connections with such water mains and sanitary sewers which are equipped and furnished with proper valves and fittings so as to enable such water connections to be used at all times and sanitary toilets and drains and such equipment shall at all times be kept in repair and in a manner so as to make them available for household use and in condition to be used at all seasons of the year.

12.0202 Outhouses - Cesspools, A Nuisance

The use, construction, maintenance, building or erection of any outhouse, privy, vault or cesspool within the City is hereby declared to be a nuisance and a menace to public health when in violation of Section 12.0201.

12.0203 Outhouses - Cesspools, Exceptions

- a. Private sewage system and private water supplies may be constructed to serve new buildings to be built in areas not included in Section 12.0201, providing such lot area complies with the requirements of any zoning requirements.
- b. Private sewage systems and private water systems may be installed in existing buildings in areas not included in Section 12.0201.
- c. Each private sewage system or private water supply hereafter altered or constructed shall conform to the State Health Department Standards.

12.0204 Outhouses - Cesspools, Offensive Odors

It shall be unlawful for the owner or occupant of any lot or piece of ground within the corporate limits of this City to suffer or permit any private sewer system to emit any offensive odors or to become dangerous or injurious to public health or offensive to sense of smell of the people of the City, and any private sewer system emitting such odor is hereby declared to be a nuisance and menace to public health of the City.

12.0205 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 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.

12.0206 Dead Animals

Any person who owned or had possession or control of a dead animal prior to its death shall remove or cause the same to be removed within five (5) hours from the time the animal dies and have the same buried or disposed of in some other sanitary way approved by the City Health Officer. Any dead animal remaining in any street, alley or other public place in this City, or in any private premises within this City, for more than five (5) hours after the animal shall have died, is hereby declared to be a nuisance; and any person permitting any dead animal in the street, alley or public place of the city or allowing any animal which he owned or which was in his possession or under his control prior to its death, to remain in any street, alley or public place, or on any private premises within the city for more than five (5) hours after its death shall be guilty of a violation of this article.

12.0207 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 substances whether animal or vegetable to accumulate or stand so as to cause an offensive odor to be emitted therefrom or to become injurious or dangerous to the health of the neighborhood, and any pool of water and any putrid substance permitted to become offensive or injurious to the public health is hereby declared to be a nuisance.

12.0208 Dirt, Filth, etc., in Streets and Property

It shall be unlawful for any person, firm or corporation to throw, place, deposit, leave or cause to be thrown, placed, deposited or left in any of the public streets, highways, alleys, parks or thoroughfares, or on any private premises in this City any dirt, filth, sewage, sweepings, rags, dung, garbage, compost, wastepaper, excelsior, straw, hay, leaves, brush, weeds, dry grass, shavings, barrels, boxes, wooden crates, lumber, stable manure, ashes, vegetables, slops or litter of any kind, and any place or property having left or deposited thereon any of the things or substances aforesaid is hereby declared to be a nuisance.

Article 3 Smoke - Gases

12.0301 Smoke, Dust, Ashes, Gases, Cinders, A Nuisance

The emission of dense smoke, ash, dust, soot, cinders or noxious gases from any machine, contrivance, or from the smoke stack or chimney of any building or premises in such quantities as to cause injury or detriment, to any person or persons, or to the public, or

to endanger the comfort, health or safety of any person or persons, or in such manner as to cause or tend to cause damage or injury to property, is hereby declared to be a nuisance.

12.0302 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 of 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 4 Radio Interference and Noise Control

12.0401 Radio Interference Prohibited

It shall be unlawful for any person knowingly to maintain, use, operate or cause to be operated within this City, any machine, device, appliance, equipment or apparatus of any kind whatsoever, the operation of which shall cause reasonably preventable electrical interference with radio reception within said municipal limits, and the maintenance, use or operation within said city of any machine, device, appliance, equipment or apparatus of any kind so as to interfere with radio reception in violation hereof, is hereby declared a common nuisance.

12.0402 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 are hereby declared to be unlawful and a public nuisance. The following acts, among others, and are declared to be prohibited noises in violation of this section, but such enumeration is not exclusive:

1. The sounding of horns or signaling devices on any motor vehicle, or motorcycle on any street or public place except as a danger warning or their sounding for an unnecessary and unreasonable period of time.
2. Radios, Phonographs, etc. The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated, and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

3. Loudspeakers, Amplifiers for Advertising. The use, operating, or permitting to be played, used or operation of any radio receiving set, musical instrument, phonograph, loudspeaker, amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
4. Yelling, Shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11 p.m. and 7 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.
5. Schools, Courts, Churches, Hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

Article 5
Automobiles - Personal Property

12.0501 Automobiles, Personal Property - When a Nuisance

Unsheltered storage of old, used, stripped, junked and other automobiles not in good, safe operating condition, and of any other vehicles, machinery implements and/or equipment and personal property of any kind which is no longer safely usable for the purposes with which it was manufactured for a period of thirty days or more (except in a licensed junk yard) within the city, and any motor vehicle, animal and article or personal property which constitutes an obstruction to, hazard or detriment to public traffic, snow removal operations, public safety and public health and morals or which may be abandoned or unclaimed within this City is hereby declared to be a nuisance and dangerous to public safety and shall be abated in the manner prescribed in this article.

12.0502 Abatement Required by Owners

The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of this city upon which such storage is made, and also the owner, owners, and/or lessees of said property involved in such storage (all of whom are hereinafter referred to collectively as "owners"), shall jointly and severally abate said nuisance by the prompt removal of said personalty 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.

12.0503 Abatement Required, Penalty for Failure

If said owners allow said nuisance to exist or fail to abate said nuisance they, and each of them, upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense and a separate offense shall be deemed committed on each day during or on which such nuisance is permitted to exist.

12.0504 Removal and Impoundment by City

The Police Department may remove or cause to be removed to the City Hall, or any other place within the City, selected for the purpose any personal property described in 12.0501 and may impound and retain the same until the expense of removal, storage and impounding is paid, together with the amount of any fine, costs, bail or other claims of the City against the owner, or any other person lawfully entitled to the possession thereof.

12.0505 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 or personal property described in 12.0501 may be sold and disposed of by the Police Department in the manner hereinafter provided. Notice that such property will be sold shall be published once, at least six (6) days prior to the sale, in a newspaper published in the City or if none in the official newspaper of the County. Such notice shall specify a description of the property to be sold, the time and place of sale, and shall be signed by the Chief of Police. Such sale shall be held between the hours of 9:00 o'clock in the morning and 5:00 o'clock in the afternoon of the day specified in the notice. Such sale shall be held at the front door of the City Hall, or at the location of the property to be sold. Any sale may be postponed or discontinued by public announcement at the time of the sale where there are no bidders or when the amount offered is grossly inadequate, or for other reasonable cause. The City may become a purchaser of any or all property at such sale. The Chief of Police shall give the purchaser at such sale a certificate of purchase of such property.

12.0506 Removal and Impoundment Proceeds

Within thirty (30) days after such sale, the person making the sale shall make out, in writing, and file with the City full report of such sale specifying the property sold, the amount received therefore, the amount of costs and expenses, and disposition made by him of the proceeds of the sale. The proceeds arising from such sale shall be delivered over to the City treasurer and credited to the General Fund.

**Article 6
Trees Infected with Dutch Elm Disease**

12.0601 Trees Infected with Dutch Elm Disease - Deemed Public Nuisance

In the interests of the general welfare of the City of Thompson and the citizens thereof, any elm tree within the City of Thompson which is infected with or hereafter becomes infected with Dutch elm disease is declared to be a public nuisance.

12.0602 Same: Park Commission to Inspect, Remove and Burn

The commissioners of the Park District of the City of Thompson are hereby authorized, directed and empowered to inspect any tree within the City, whether on public or private property, reported or supposed to be infected with Dutch elm disease; and if upon such inspection it is determined that such tree is so infected the Park Commission is hereby authorized, directed and empowered to immediately remove and burn the same in such manner to prevent as fully as possible the spread of such disease if said tree is located on public property and not less than five (5) days after serving a mailing notice to the owner if said tree is located on private property. If such owner cannot be found, a copy of the notice shall be posted upon the infected tree and the 5 day period shall commence at the time of such posting. The owner of such private property may waive the five-day notice. The cost of such inspection and of the removal and burning of infected trees shall be borne by the Park Commission for the infected trees on public property and by the individual owner for the infected trees on his private property.