

## CHAPTER 11

### PUBLIC AND SANITARY NUISANCES

#### Article

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#### ARTICLE 11-01

##### GENERAL PROVISIONS

#### Section

- 11-0101 Nuisances under common law and law of state.
- 11-0102 Nuisances not permitted on any land.
- 11-0103 Cost of removal of nuisance assessed against property.

11-0101. Nuisances under common law and law of state.--In all cases where no provision is made defining what are nuisances and how the same may be removed, abated, or prevented, those offenses which are known to the common law of the land and the statutes of North Dakota as nuisances may, in case the same exist within the city limits or within one mile thereof, be treated as such and proceeded against as in this chapter provided or in accordance with any other law which shall give the court trying the same jurisdiction.

Source: 1952 Rev. Ord. 11-0101.

11-0102. Nuisances not permitted on any land.--No owner or occupant of any lot or tenement shall cause or permit any nuisance to be or remain in or upon any lot or tenement or between the same and the center of the street adjoining.

Source: 1952 Rev. Ord. 11-0102.

11-0103. Cost of removal of nuisance assessed against property.--The expense of the removal or destruction of a nuisance, source of filth, or cause of sickness shall be assessed against the property concerned by the city engineer and the assessment filed in the office of the city auditor. In August of each year, after due notice, the board of city commissioners shall review all such assessments, and hear all complaints against the same, and approve the same as finally adjusted; and such special assessment shall then be certified to by the county auditor and be placed upon the tax

roll for that year and be collected as other taxes.

Source: 1952 Rev. Ord. 11-0103.

## ARTICLE 11-02

### NOISE CONTROL AND RADIO INTERFERENCE

#### Section

11-0201	Definitions.
11-0202	Unnecessary noise prohibited.
11-0203	Unlawful noise--Determination.
11-0204	Projection of sound unlawful.
11-0205	Motorized vehicles.
11-0206	Aircraft.
11-0207	Exemptions.
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11-0211	Interference--When permitted.
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11-0201. Definitions.--For purposes of this article, certain words and phrases used herein are defined as follows:

1. "Ambient noise" is the all-encompassing noise associated with a given environment, being usually composite of sounds from many sources, near and far.

2. "'A' band level" is the total sound level of all noise as measured with a sound level meter using the "A" weighting network. The unit measurement is the dB(A). "dB" is the abbreviation for decibel. "dB(A)≡ "s a weighted decibel which closely approximates the human ear response to sound.

3. "Bel" is the common logarithmic value of any sound intensity as related to the standard threshold of audibility (minimum detectable sound  $10^{-12}$  watts per square meter).

4. "Decibel" is one-tenth (1/10) of a bel as measured on the "A" scale of a standard sound meter.

5. "Cycle" is the complete sequence of value of a periodic quantity that occur during a period.

6. "Frequency" of a function periodic in time is the reciprocal of the primitive period. The unit is the cycle per unit time and must be specified.

7. "Sound-level meter" is an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specified manner.

8. "Person" is a person, person's firm, association, co-partnership, joint venture, corporation or any entity public or private in nature.

9. “Emergency work” is work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

10. “Emergency vehicles” are those vehicles such as ambulance, fire, police, and other city vehicles operating in time of emergency.

Source: 2017 (1981).

11-0202. Unnecessary noise prohibited.--It shall be unlawful for any person to make any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city of Fargo.

Source: 2017 (1981).

11-0203. Unlawful noise--Determination.--The standards which shall be considered in determining whether a violation of § 11-0202 exists shall include, but shall not be limited, to the following:

- A. The volume of the noise.
- B. The intensity of the noise.
- C. Whether the nature of the noise is usual or unusual.
- D. Whether the origin of the noise is natural or unnatural.
- E. The volume and intensity of the background noise, if any.
- F. Within the central business district (area bounded by First Avenue South, Seventh Avenue North, Fourth Street and Eighth Street), the following noises between the hours of 10:00 p.m. and 6:00 a.m. are specifically prohibited, provided, however, that the 10:00 p.m. closing time may be extended by special permit secured from the board of city commissioners:
  1. Radios, tape players or other sound amplifiers, whether portable or installed in vehicles, at a level which can be heard by a person more than 10 feet away from said vehicle or amplifier.
  2. Any horn, bell or other noise-making device except emergency warning devices.
  3. Shouting or yelling where the voice is clearly audible at a distance of more than 10 feet.

Source: 2017 (1981), 2372 (1987), 4392 (2004).

11-0204. Projection of sound unlawful.--It shall be unlawful to project a sound or noise excluding noise emanating from a moving motor vehicle from one property into another, within the boundary of a use district which exceeds the limiting noise criteria set forth in Table 1 below.

- A. Sound or noise projecting from one use district, into another use district with a different noise level limit, shall not exceed the limits of the district into which the noise is projected.
- B. The permissible levels in decibels set forth in Table 1 shall be modified so that any noise occurring on property deemed to be nonconforming use property shall be determined upon the conforming zoning designation of the property.

TABLE 1. LIMITING NOISE LEVELS FOR ZONING DISTRICTS

	Zoning District		
	Residential SR-0, SR-1, SR-1 SR-3, SR-4 MR-1, MR-2, MR-3 MHP, DMU	Commercial LC, GC,	Industrial LI, GI
Maximum number of decibels permitted from 7:00 a.m. to 11:00 p.m., daily	55	65	80
Maximum number of decibels permitted from 11:00 p.m. to 7:00 a.m. of the following day	50	60	75

For purposes of the decibel levels listed in Table 1, zoning districts that are comprised of a mixed use, having a residential land-use component, shall be designated as residential and the more restrictive decibel levels applicable for residential zoning shall apply.

Source: 2017 (1981), 4553 (2006).

11-0205. Motorized vehicles.--It shall be unlawful to operate a motorized vehicle within the city limits which creates a noise or sound which exceeds the noise level limits set out in Table 2, as follows:

TABLE 2. LIMITING NOISE LEVELS FOR MOTOR VEHICLES

- A. Trucks, buses, construction equipment, or any motor vehicle with a gross weight rating of 10,000 pounds or more: Maximum allowable limit: 88 dB(A) measured at or corrected to 25 feet.
- B. Passenger cars, pickups, vans, motorcycles, snowmobiles, or any motor vehicle with a gross weight rating less than 10,000 pounds: Maximum allowable limit: 80 dB(A) measured at or corrected to 25 feet.
- C. Interstate Motor Carrier:  
Maximum allowable limit:
  - 1. 92 dB(A) measured at or corrected to 25 feet when traveling on roadways with speed limits of 35 mph or less.
  - 2. 92 dB(A) measured at or corrected to 25 feet when traveling on roadways with speed limits of more than 35 mph.

Source: 2017 (1981).

11-0206. Aircraft.--It shall be unlawful for any person to operate or cause to be operated any type of aircraft over the city which produces noise levels exceeding 88 dB(A) within the city.

Source: 2017 (1981).

11-0207. Exemptions.--The following uses and activities shall be exempt from noise level regulations:

- A. Noises of safety signals, warning devices, and emergency relief valves.
- B. Noises resulting from any authorized emergency vehicles, when responding to an emergency call or acting in time of emergency.
- C. Noises resulting from emergency work as defined in § 11-0201(9).
- D. Any construction or maintenance activities at the construction or maintenance site.
- E. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the city in accordance with § 11-0208.
- F. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction used pursuant to and with the duly adopted federal air regulations shall be exempt from the provisions of § 11-0206 as well as other regulations of this section. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations shall also be exempt from the provisions of § 11-0206 as well as the other regulations of this section.
- G. Any regulation of railroad noise will be subject to the following:  
Title 40, Code of Federal Regulations, part 201:
  - 1. 201.1 (c), (m), (p), (t), (aa), (dd), (ee)
  - 2. 201.10
  - 3. 201.11 (a), (b)
  - 4. 201.12 (a), (b)
  - 5. 201.13
  - 6. 201.22, 201.23, 201.24

Source: 2017 (1981).

11-0208. Application for special permit.--Applications for a permit for relief from the noise level designated in this section on the basis of undue hardship may be made to the city engineer or his duly authorized representative. Any permit granted by the city engineer hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The city engineer, or his duly authorized representative, may grant the relief as applied for if he finds:

- A. That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this section; or
- B. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section; and
- C. That no other reasonable alternative is available to the applicant; and

D. The city engineer may prescribe any conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

Source: 2017 (1981).

11-0209. Radio interference between six o'clock p.m. and eleven o'clock p.m. prohibited.--It shall be unlawful for any person, firm or corporation to operate in the city any device or apparatus, either electrical or mechanical, which generates or causes high frequency oscillations or electrostatic or electromagnetic waves which interfere with radio broadcast reception between the hours of six o'clock p.m. and eleven o'clock p.m., except that a person duly licensed to practice medicine, osteopathy, chiropractic, or dentistry by the laws of the state of North Dakota, in a case of absolute emergency arising in the course of the practice of his profession, which case demands immediate treatment between the aforementioned hours, may operate or cause to be operated under his immediate direction and supervision any machinery necessary to give emergency in such case.

This prohibition shall be construed to apply to radio equipment either of the regenerative or any other type, violet ray machines, X-ray machines, diathermy machines, vibrating battery charges, sign changers or electric signs or devices using a blinking device where a make and break contact is maintained, electric refrigeration machines, electrically driven oil pumps or furnace equipment, high tension ignition systems, electric transmission lines, defective insulators and transformers, defectively sparking motors and generators, and all other electrical or mechanical devices which, because of the manner of construction, state of repair, or condition or manner of operation, interfere with radio reception.

Source: 2017 (1981).

11-0210. Unlawful interference defined.--Unlawful interference with radio reception within the meaning of this article shall exist where radio reception interference arises from the use or operation of any device or apparatus such as violet ray machines, machines using Tesla coil or principle, X-ray machines and diathermy machines described in § 11-0209, under all of the following conditions:

- A. Such device or apparatus must be situated not less than 100 feet from the radio receiving set with which it interferes.
- B. The radio receiving equipment interfered with shall be operated at a volume comparable to a person's normal tone of voice.
- C. The broadcasting station whose program is being received when the interference occurs must have a power output of not less than one kilowatt and must be located not more than 300 miles from the receiving set.

It is expressly provided, however, that this article shall not apply to radio stations, either broadcast, commercial, or amateur, duly licensed by the government of the United States; and unlawful radio reception interference shall not be deemed to arise or exist from the operation of duly licensed broadcasting stations.

Source: 2017 (1981).

11-0211. Interference--When permitted.--Unlawful radio reception interference, within the meaning of this article, shall not be deemed to arise or exist under the following conditions:

- A. It shall not be unlawful to cause radio reception interference except between the hours of six o'clock p.m. and eleven o'clock p.m.
- B. It shall not be unlawful to cause radio reception interference where the

devices mentioned in § 11-0209 are operated by any agency or department of the city, the county of Cass, the state of North Dakota, or the United States of America; provided, that such devices be equipped so far as is reasonably possible with filters, chokes, condensers, shields, and grounds and are operated and maintained exclusively in the exercise of public or governmental functions.

Source: 2017 (1981).

11-0212. Building inspector--Powers and duties.--The building inspector of the city, or his duly authorized deputies, shall have the right to enter upon any premises, other than private residences, at all reasonable hours for the purpose of inspecting the same. He may enter upon the premises and inspect private dwellings with the consent of the owner or occupant thereof. If it is found that equipment, apparatus, or devices described in § 11-0209 are being operated or maintained in violation of this article, the building inspector shall notify, in writing, the person, firm or corporation responsible for the unlawful operation or maintenance of such devices, equipment, or apparatus to discontinue the use thereof, or to make additions, repairs, or modifications thereof, in order that the same may be operated or used in a manner which complies with this article. The mailing of a registered or certified letter to the owner or operator of such machine, device, or apparatus, addressed to such owner or operator at the premises where such machine, device, or apparatus is operated or maintained, or the personal service of such notice upon the said owner or operator shall constitute sufficient notice for the purposes of this article. In the event that the owner or operator of such machine, device or apparatus shall not, within three days after the giving of such notice, either entirely discontinue the use or operation of such machine, device, or apparatus during the hours when the same is prohibited to be used or operated by the terms of this article or repair the same so that it complies with the provisions of this article, such owner or operator thereof shall be deemed to be operating the same in violation of the provisions of this article.

Source: 2017 (1981).

11-0213. Wires over streets, alleys, and private property--Consent of owner.--No person, firm, or corporation shall install, operate, or maintain any aerial ground wire or other wire used in connection with any radio receiving set over, upon or across any public street or alley; nor over, upon, or across the private property of any other person, firm, or corporation without the consent of the owner thereof; nor within five feet of any telephone, electric light or telegraph pole, or any exterior telephone, telegraph, or electric light service wire. Such aerial, ground wire, or any other device used in connection with the maintenance of any radio receiving set shall be properly grounded or protected against lightning or other improper foreign electrical conductivity.

Source: 2017 (1981).

11-0214. Advertising or making announcements from buildings or on streets with sound trucks or noise-making devices prohibited--Exceptions.--The word "person" as use in this section shall include the singular and the plural and shall also mean and include any person, firm, corporation, association, club, co-partnership, society, or any other organization.

No person owning, leasing, or operating any building, structure, or vehicle shall play, use, operate, or permit to be played, used, or operated any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier, sound truck, or other machine or device for the producing or reproducing of sound for the purpose of advertising, making announcements, or attracting the attention of the public to such building, structure, or vehicle, except that the board of

city commissioners may issue a permit for the use of sound trucks upon specified city streets during stated hours if the announcements or programs to be broadcast are in the public interest and not for commercial purposes.

Each person shall be deemed guilty of a separate offense for each day during any portion of which any violation of the provisions of this article be committed, continued, or permitted.

Source: 2017 (1981).

11-0215. Public nuisance--Remedy--Penalty.--Any noises found to be in violation of this ordinance and the maintenance, use, or operation of any of the apparatus, machinery, or devices defined in § 11-0209 in violation of the terms of the article, are hereby declared to be a public nuisance and may be abated, enjoined or repressed in the same manner as any other public nuisance, including restraining order or injunction issued by a court of competent jurisdiction. A violation of any of provision of this article shall constitute an infraction, punishable in accordance with § 1-0301 of the Fargo Municipal Code. Each day a violation exists shall be deemed to be a separate offense. The remedy provided by this section shall not be deemed to be exclusive, and violations may be prosecuted in municipal court in the same manner as violations of other ordinances.

Source: 2017 (1981), 4553 (2006).

## ARTICLE 11-03

### GAS WORKS

#### Section

- 11-0301 Gas works--When a nuisance.
- 11-0302 Petition against nuisance--Parties--Service of notice to abate.
- 11-0303 Abatement of nuisance.
- 11-0304 Penalty for violation of article.

11-0301. Gas works--When a nuisance.--Any person, persons, firm, or corporation now or hereafter engaged in operating any gas works or factory for the manufacture of gas within or within one mile of the corporate limits of the city shall be guilty of a misdemeanor who shall suffer on his, her, their, or its premises, or on premises of which he, she, they, or it may be the occupant or occupants, any considerable quantity or amount of offensive, nauseous, or unwholesome smoke, coal or coke dust, gases, fumes, or smells to escape, or to be emitted therefrom and, borne by the winds, to be precipitated upon the property of adjacent householders or persons residing in the neighborhood of such gas works or factory in sufficient quantity or amount to injure or endanger the health or safety of animal or vegetable life, or damage or destroy, paint upon buildings, or in any way render insecure or uncomfortable the life or health of persons or the use of property; or who shall produce, or permit to be produced, on such premises loud and disturbing noises, such as to annoy or injure the comfort and repose of any considerable number of persons of ordinary sensibilities residing in the neighborhood of such gas house, works, or factory; provided, that such offensive, nauseous or unwholesome smoke, dust, gases, fumes, or smells, damage, or noises must be shown to affect at the same time an entire community or neighborhood, or a considerable number of persons, buildings, or premises. Any such person, persons, firm, or corporation who shall throw or deposit, or suffer to be thrown or deposited, any gas tar or refuse of any gas house, works, or factory into any sewer owned by or used by the city, or into any river or stream, or into any sewer or

stream emptying into any river or stream within one mile of the corporate limits of the city shall be guilty of a misdemeanor. Such acts, either singly or collectively, shall be held and construed to be unlawful acts or the omission to perform duty or duties required by the public good; and each such unlawful act or omission, and the premises upon which is situated any such gas house, works, or factory from which any of the foregoing offensive, nauseous, or unwholesome effects emanate or are emitted, or where the same is done or permitted to be done, shall constitute and is hereby, declared to be a nuisance.

Source: 1952 Rev. Ord. 11-0301.

11-0302. Petition against nuisance--Parties--Service of notice to abate.--Upon the petition of any considerable number of freeholders, in fee (not less than 50), residing within 1,500 feet in any direction from the nearest property line of the premises now or hereafter occupied by and upon which is operated any gas house, works, or factory and the aggregate value of the real property of such petitioners combined shall equal at least the sum of \$50,000, praying for the abatement of such nuisance as described and defined in § 11-0301, then and thereupon it shall be the duty of the board of the city commissioners to order and direct the city engineer to investigate and make to it his separate report, findings, and recommendations, based upon his personal investigation of such gas house, works, or factory and the persons residing adjacent thereto and the premises and neighborhoods surrounding the same. And if, upon the filing of such report of investigation, findings, and recommendations by the city engineer, the board of city commissioners shall decide and determine by majority vote, it may order and direct the city attorney to serve notice in writing upon such person, persons, firm, or corporation, to be served and returned in like manner as a summons is served and returned, to abate such nuisance forthwith. And if the owner or owners or occupant or occupants of such premises on which the said nuisance shall be situated shall neglect or refuse to abate the same for a period of 30 days after such notice shall have been served, he, she, they, or it, upon conviction thereof, shall be liable to the penalties prescribed in § 11-0304.

Every day such nuisance shall continue to be unabated after said 30 days shall constitute a separate offense.

Source: 1952 Rev. Ord. 11-0302.

11-0303. Abatement of nuisance.--After conviction of any person, persons, firm, or corporation for maintaining any such nuisance as is defined and declared in § 11-0301, then and thereupon it shall be the duty of the board of city commissioners to abate summarily the said nuisance or the acts or omissions constituting such nuisance in such manner as it may direct.

Source: 1952 Rev. Ord. 11-0303.

11-0304. Penalty for violation of article.--Any person, firm, or corporation who violates, disobeys, neglects, or refuses to comply with, or who willfully omits to perform, any legal duty relating to the removal of, discontinuance, or abatement of the acts or omissions constituting any such nuisance as defined herein, or who resists any of the provisions of this article shall upon conviction be punished by a fine not to exceed \$100 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment for each and every offense, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof.

Source: 1952 Rev. Ord. 11-0304.

## ARTICLE 11-04

### AUTOMOBILES AND PERSONAL PROPERTY

#### Section

- 11-0401      Automobiles or other personal property--When declared nuisance.
- 11-0402      Removal and impounding by police department.
- 11-0403      Impounded property--When held and sold.
- 11-0404      Report to city auditor--Disposition of proceeds.

11-0401. Automobiles or other personal property--When declared nuisance.--Any motor vehicle, animal, or other article of personal property located within the city, the use, condition, or status of which is in violation of any ordinance of the city or any law of the state of North Dakota, or which constitutes an obstruction, hazard, or detriment to public traffic, snow-removal operations, public safety, or public health or morals, 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 or any law of the state, or any vehicle or other article of personal property abandoned or unclaimed within the city is hereby declared to be a nuisance and shall be abated in the manner provided by this article. The practice of parking motor vehicles in the front yards of properties within the city of Fargo (except as otherwise allowed by § 20-0701 of the Fargo Municipal Code) is hereby declared to be a nuisance and shall be abated in the manner provided by this article.

Source: 1952 Rev. Ord. 11-0401, 2367 (1987), 4072 (2000).

11-0402. Removal and impounding by police department.--The police department of the city or a contractor designated to act on its behalf may enter private property and 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 § 11-0401, 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.

Source: 1952 Rev. Ord. 11-0402, 2512 (1990), 2612 (1992).

11-0403. Impounded property--When held and sold.--If not reclaimed and redeemed by the true owner or the person lawfully entitled to the possession thereof, any article or personal property described in § 11-0401 may be sold and disposed of by the police department of the city as follows:

- A. Any motor vehicle which is more than seven model years of age, is lacking vital component parts, and does not display a current license plate, may be disposed of by the police department, or a contractor designated to act on its behalf.
- B. When an impounded motor vehicle is less than seven model years of age, or displays a current license tag, the owner of the vehicle shall be notified within 10 days of the impoundment. The notice shall set forth the date and place of the taking, the year, make, model, and serial number of the motor vehicle and place the vehicle is being held and must inform the owner and lien holders or secured parties of their right to reclaim the vehicle.
- C. The owner of any vehicle desiring to reclaim his or her vehicle may do so within 15 days after the date of the notice is required by subsection (B) of this section; provided, that prior to reclaiming, the owner shall be required to

- pay all towing and storage charges, expenses of removal, plus any fining, costs, bail, or other claims of the city against the owner.
- D. The notice to the owner which is required by subsection (B) of this section shall be sent by mail to the registered owner, if any, of the impounded motor vehicle and all readily identifiable lien holders or secured parties of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice must be published once in a newspaper of general circulation in the area or from which the motor vehicle was impounded.
  - E. Motor vehicles which are more than seven model years old and do not bear a current license plate, or those which are unclaimed after giving appropriate notice as provided in subsection (B) of this section, shall be sold at public auction for sale, following reasonable published notice thereof in the official newspaper of the city.
  - F. After sale of the vehicle, all costs, fines, or expenses, as hereinabove described in subsection (C) of this section, shall be deducted from the purchase price and the remainder held for minimum of 90 days for the benefit of the owner of the vehicle. In the event that such funds are unclaimed after a period of 90 days, the amount shall be disposed of as provided in § 11-0404 of this article.
  - G. The sale of motor vehicles 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.
  - H. Any personal property which is impounded pursuant to the terms of this article may be sold, without notice to the owner, in the same manner as motor vehicles which are more than seven model years of age and are unlicensed; provided, that if such personal property has a reasonable value of at least \$100 and the owner thereof is known to the city, notice and the opportunity to reclaim shall be given to the owner in the same manner as for motor vehicles which are less than seven model years of age.
  - I. The city may, by contract, delegate responsibility for impoundment, notification, and sale of impounded motor vehicles and other personal property, to a private party having sufficient facilities to impound and store such vehicles.

Source: 1965 Rev. Ord. 11-0403, 1452 (1972), 2612 (1992).

11-0404. Report to city auditor--Disposition of proceeds.--Within 30 days after sale as provided for in § 11-0403 of this article, the police department, or a contractor designated to act on its behalf, shall make out, in writing, and file with the city auditor a full report of such sale specifying the property sold, the amount received therefor, 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 over to the city treasurer and credited to the general fund.

Source: 1952 Rev. Ord. 11-0404, 2612 (1992).

ARTICLE 11-05

SMOKE AND GASES

Section

- 11-0501 Dense smoke, ash dust, soot, cinders, noxious gases, and paint spray as nuisance.
- 11-0502 Dense smoke, ash dust, soot, cinders, noxious gases, and paint spray prohibited.
- 11-0503 Complaints.
- 11-0504 Investigation.
- 11-0505 Action to abate.
- 11-0506 Penalty for violation of article.

11-0501. Dense smoke, ash dust, soot, cinders, noxious gases, and paint spray as nuisance.--The emission of dense smoke, ash dust, soot, cinders, or noxious gases from the stack or chimney of any locomotive or similar machine or contrivance or from the smoke stack or chimney of any building or premises or the emission of paint spray from any paint sprayer or similar apparatus 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 such 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.

Source: 1952 Rev. Ord. 11-0501, 1172 (1964).

11-0502. Dense smoke, ash dust, soot, cinders, noxious gases, and paint spray prohibited.--No person, persons, association, or corporation shall cause, permit, or allow the escape into the open air from any smoke stack, chimney, or paint-spraying apparatus, of such quantities of dense smoke, ash dust, soot, cinders, acid or other fumes, dirt or other material, noxious gases, or paint spray 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.

Source: 1952 Rev. Ord. 11-0502, 1172 (1964).

11-0503. Complaints.--Any person or persons having cause for complaint with respect to the violation of §§ 11-0501 and 11-0502 shall file such complaint, in writing, with the board of city commissioners, setting forth the facts in connection therewith including a description of the premises from which such smoke, ash dust, soot, cinders, noxious gases, or paint spray was allowed to escape and the name of the owner thereof.

Source: 1952 Rev. Ord. 11-0503, 1172 (1964).

11-0504. Investigation. When any complaint with respect to violation of §§ 11-0501 and 11-0502 has been filed with the board of city commissioners, the same shall be referred to the city engineer for investigation, and if, upon such investigation, the city engineer shall find the conditions complained of such as to justify said complaint, the board shall, in writing, by registered mail or by personal service upon such owner, notify the owner of said premises to take such steps as, in the judgment of the board may be necessary to remedy the same, such order to specify the time limit within which such action must be taken.

Source: 1952 Rev. Ord. 11-0504.

11-0505. Action to abate.--In the event that the owner of said premises fails to remedy offensive conditions within the time limit specified in the order given by the board of city commissioners, as provided in § 11-0504, the board may, in its discretion, require the city attorney to commence an action to abate said nuisance.

Source: 1952 Rev. Ord. 11-0505.

11-0506. Penalty for violation of article.--Any person who shall violate any of the terms and provisions of this article and who, when notified in writing by the board of city commissioners, shall fail, neglect, or refuse to take steps to correct the condition complained of, and to prevent a repetition thereof, within the time specified in the notice provided for in § 11-0504 shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed \$100 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the court, for each such offense; the court to have power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, association, or corporation shall violate any of the provisions of this article shall constitute a separate offense.

Source: 1952 Rev. Ord. 11-0506.

## ARTICLE 11-06

### DANGEROUS STRUCTURES OR BUILDINGS

#### Section

- 11-0601 Dangerous structure, building, bridge, excavation, ditch, cellar, basement, or wall of building declared a nuisance.
- 11-0602 Duties of health department and health officer-- Inspection--Order and notice to abate.
- 11-0603 Failure of owner to comply with order--Complaint filed.

11-0601. Dangerous structure, building, bridge, excavation, ditch, cellar, basement, or wall of building declared a nuisance.--Any structure, building, bridge, excavation, ditch, cellar, basement, or wall of any building within the city which by reason of its condition is dangerous to the health of, or is likely to cause accident or injury to, any person is hereby declared a nuisance.

Source: 1952 Rev. Ord. 11-0601.

11-0602. Duties of health department and health officer--Inspection--Order and notice to abate.--It is hereby made the duty of the health department of the city, whenever it may be called to the attention of such department, or any officer or employee thereof that any structure, building, bridge, excavation, ditch, cellar, basement, or wall of any building within the limits of the city, by reason of the condition which then exists with respect thereto, is dangerous to the health of, or is likely to cause accident or injury to, any person, to make a thorough inspection of the premises upon and with respect to which such condition is alleged to exist and to make a full and complete report thereof to the city health officer.

If, in the opinion of the city health officer, after a review of the report of investigation hereinbefore provided for, a condition is found to exist with respect to the premises complained against which is dangerous to the health of, and is likely to cause accident or injury to, any person, it shall be his duty immediately to order the owner or occupant, or agent for either, of the premises

upon which such condition exists to abate such nuisance and eliminate such condition within a reasonable time as may be determined by such health officer. It shall be the further duty of such health officer to give or cause to be given notice in writing, by registered mail, to the owner or occupant, or agent for either, of such premises that such dangerous or hazardous condition exists and that the same must be abated and eliminated within the time specified in the notice.

Source: 1952 Rev. Ord. 11-0602.

11-0603. Failure of owner to comply with order-- Complaint filed.--In the event that an owner, within the time specified in the notice provided for in § 11-0602, or within such further time as may be granted by the health officer of the city, fails to comply with such order and abate and eliminate the dangerous or hazardous condition complained of, he shall be guilty of a misdemeanor and it shall be the duty of the health officer to file with the police magistrate a complaint against the owner of such premises charging him with a violation of this article.

Source: 1952 Rev. Ord. 11-0603.

## ARTICLE 11-07

### HEDGE, TREE, OR GROWTH OF ANY NATURE OBSTRUCTING VIEW OF DRIVER OF VEHICLE OR CREATING UNSAFE OBSTRUCTION OR HIDING PLACE

#### Section

- 11-0701 Hedge, tree, or growth--When a nuisance.
- 11-0702 Duties of chief of police--Inspection--Order and notice to abate.
- 11-0703 Failure of owner to obey order--Action to abate.
- 11-0704 Penalty for violation of article.

11-0701. Hedge, tree, or growth--When a nuisance.--Any hedge, tree, or growth, of any kind or character maintained on any property in the city which is so located or of such height as to constitute either a traffic hazard by obstructing the view of the driver of any vehicle upon the streets of the city to the extent that such driver is unable to readily observe the approach of other vehicles on streets, alleys, and at intersections, or which is likely, because of its location or height, to cause accident or injury to any person or which, in the opinion of the chief of police, creates an unsafe obstruction, hiding place or harborage for possible criminal activity, is hereby declared a nuisance.

Source: 1952 Rev. Ord. 11-0701, 1010 (1957), 4317 (2003).

11-0702. Duties of chief of police--Inspection--Order and notice to abate.--It is hereby made the duty of the chief of police, whenever it may be called to the attention of his department, or any officer or employee thereof, that any hedge, tree, or growth of any kind or character on any property within the city, has been so planted or is maintained in a place or at a height so as to obstruct the view of the driver of any vehicle on the streets of the city, to the extent that such driver is unable to observe readily the approach of other vehicles on streets, alleys, and at intersections; which is likely because of its location or height to cause accident or injury to any person or which is located on non-residential property and which may create an unsafe obstruction, hiding place or harborage for possible criminal activity to make a thorough inspection of the premises upon and with respect to

which such condition is alleged to exist.

If in the opinion of the chief of police, a condition is found to exist, with respect to the premises complained against, which is dangerous as a traffic hazard and is likely to cause accident or injury to any person or which creates an unsafe obstruction, hiding place or harborage for possible criminal activity, it shall be the duty of the chief of police immediately to order the owner of the premises upon which such condition exists to abate such nuisance and eliminate such condition. It shall be the further duty of the chief of police to give or cause to be given notice in writing to the owner of such premises that such dangerous or hazardous condition exists and that the same must be abated and eliminated or an appeal taken from the order to the board of city commissioners within the time specified in the notice, said time so fixed to be not less than 15 days nor more than 60 days from the date of said notice. The chief of police may authorize the head of the office of building inspections to issue any such notice or order as described in this article.

Source: 1952 Rev. Ord. 11-0702, 1010 (1957), 4317 (2003).

11-0703. Failure of owner to obey order--Action to abate.--In the event that such owner, within the time specified in the notice provided for in § 11-0702, fails to remedy such condition as therein provided or fails to appeal to the board of city commissioners from the order made by the chief of police, head of the office of building inspections, or if the board shall find, upon hearing the appeal, that said nuisance should be abated, the board may, in its discretion, request the city attorney to commence an action to abate said nuisance.

Source: 1952 Rev. Ord. 11-0704, 1010 (1957), 4317 (2003).

11-0704. Penalty for violation of article.--Any person, firm, association, or corporation who shall violate any of the terms and provisions of this article or who shall, when notified in writing by the chief of police, head of the office of building inspections, or the board of city commissioners, fail, neglect, or refuse to take steps to correct the condition complained of within the time specified in such notice, as provided for in § 11-0702, shall be guilty of an infraction, and upon conviction shall be punished by a fine not to exceed \$500 for each such offense; the court to have the power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, association, or corporation shall violate any of the provisions of this article shall constitute a separate offense.

Source: 1952 Rev. Ord. 11-0705, 1010 (1957), 4317 (2003).

## ARTICLE 11-08

### ENVIRONMENTAL NUISANCES

#### Section

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|---------|--|
| 11-0801 | Collection, storage, accumulation of rubbish, foreign matter, animal matter, rubbish, dead animal, or other offensive substances prohibited. |
| 11-0802 | Accumulation of animal waste.  |
| 11-0803 | Proper storage of food and animal feed.  |
| 11-0804 | Materials and property not to afford harborage for vermin.   |
| 11-0805 | Control of stagnant water, noxious or other weeds, tall grass.   |
| 11-0806 | Duty of property owners to control stagnant water, fill excavations, remove dirt piles, noxious or other weeds, tall grasses.                |

- 11-0807 Failure to drain stagnant water, fill excavations, remove dirt piles, remove weeds, maintain grass.--Notice of violation.
- 11-0808 Control of noxious and other weeds, grass--exceptions to general requirements.
- 11-0809 Land management plan permit--Issuance.
- 11-0810 Permit application--review.
- 11-0811 Owner or occupant's responsibilities concerning land management plan.
- 11-0812 Authority of city to manage and control grass and plantings within an area included within a land management plan.
- 11-0813 Spitting or throwing litter of any kind prohibited in public places in city.
- 11-0814 Littering on private property prohibited.
- 11-0815 Buildings not allowed to become foul.
- 11-0816 Sanitary sewers, building sewers and connections.
- 11-0817 Unlawful deposit, drainage or seepage of sewage or foul substance.
- 11-0818 Cellar, vault, private drain, cesspool, or sewer not to become nauseous.
- 11-0819 Violations and nuisances, health officer's duty to remedy violations and abate, notice.
- 11-0820 Expenses of corrective action to be charged as special assessments.
- 11-0821 Penalties for violation.
- 11-0822 Entrance by health officer for abatement of nuisance, source of filth, cause of sickness.
- 11-0823 Property agent to disclose name of principal to health department.

11-0801. Collection, storage, accumulation of rubbish, foreign matter, animal matter, rubbish, dead animal, or other offensive substances prohibited.--It shall be unlawful for any person, firm, corporation, occupant, or agent or employee thereof, to collect, store, deposit, bury, or to permit the storage, collection, deposit, or burying, upon private property within the city of Fargo, any rubbish, foreign matter, animal matter, dead animal, carcass, animal waste or excrement, ashes, or other offensive substance that is detrimental to the cleanliness of the city or the health and safety of its residents. The collection, storage, or deposit of decayed vegetation, filth, fish, hides, skins, poultry, or game is specifically prohibited. The collection, storage, or presence of such substances shall be deemed a nuisance and shall be abated by the health officer or his designee. This section does not apply to accumulation or storage of vegetation or other organic material in a properly contained compost pile unless in the opinion of the health officer, or his designee, such compost pile becomes a public health nuisance.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-08-02. Accumulation of animal waste.--It shall be unlawful for any person, firm, corporation, occupant, or agent or employee thereof, to accumulate or to allow the accumulation of animal waste or excrement such that the conditions of the premises or any structure become, in the opinion of the health officer or chief of police, or such designee thereof, offensive and injurious to the public health or to the welfare of any animals kept on the premises. The accumulation of animal waste or excrement shall be deemed a nuisance and shall be abated by the health officer, or his designee, as otherwise provided in this article.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0803. Proper storage of food and animal feed.--All foods and feed kept within the city for the feeding of animals shall be kept and stored in metal, plastic or other appropriate containers.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0804. Materials and property not to afford harborage for vermin.--It shall be unlawful for any person to accumulate on any premises, improved or vacant, or on any open lots and alleys in the city, any lumber, boxes, barrels, bricks, stones, or similar material that may be permitted to remain thereon, unless the same shall be placed on open racks that are elevated not less than 18 inches from the ground and evenly piled or stacked so that these materials will not afford harborage for vermin.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0805. Control of stagnant water, noxious or other weeds, tall grass.--No stagnant water shall be allowed to stand or remain, noxious or other weeds, or grass allowed to grow more than eight inches (8") in length upon or along the line of any railroad, street, highway, alley, public place, along or upon any vacant or other lot or place within the city. An area having more than thirty percent (30%) of grass plants in excess of eight inches (8") in length shall be deemed a violation of this section. For purposes of this article, "noxious weeds" shall mean any species of plant or vegetation recognized by the North Dakota State Weed Board as a noxious weed.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0806. Duty of property owners to control stagnant water, fill excavations, remove dirt piles, noxious or other weeds, tall grasses.--It shall be the duty of all property owners, occupants, or persons having control over private property to remove or drain stagnant water, to fill excavations, to remove dirt piles, to remove noxious or other weeds, and to maintain the growth of grass on such property so that it does not exceed eight inches (8") in length. These requirements apply to areas along and upon any railroad, street, highway, alley, public place or along or upon any vacant or other lot or place within the city. An area having more than thirty percent (30%) of grass plants in excess of eight inches (8") in length shall be deemed a violation of this section.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0807. Failure to drain stagnant water, fill excavations, remove dirt piles, remove weeds, maintain grass.--Notice of violation.--Notice of a violation of this article shall be mailed to the registered property owner as shown in the property tax records maintained in the city assessor's office, upon any agent of the property owner, and upon any occupant of the property when appropriate. The owner, agent, tenant or person in charge of the property shall take appropriate action to remove the stagnant water, fill excavations, remove dirt piles, fill holes or depressions, cut and/or keep down the growth of any noxious or other weeds, and maintain all grasses not to exceed eight inches (8") in height, as directed by the health department within the specified period of time. If the property owner, tenant, or agent fails to take such appropriate action within the time period as directed by the health department, the health department shall have authority to remove or drain off any stagnant water, fill all excavations, holes, or depressions, and cut or mow any noxious or other weeds and grasses.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0808. Control of noxious and other weeds, grass--exceptions to general requirements.--The requirements in this article requiring control of noxious and other weeds and grasses do not apply to property where the owner or person in control of the property has applied for and

obtained a land management plan permit from the city allowing grass growth to exceed eight inches (8") in length.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0809. Land management plan permit--Issuance.--To obtain a land management plan permit, the applicant must submit a written plan identifying the specific area where the plantings or grass is planned to exceed eight inches (8") in length, a statement of intent and purpose for the area, a drawing, plot plan and/or survey showing the location of the planting on the applicant's property, a detailed description of the plant types and plant succession involved, and specific management and maintenance techniques to be employed. The land management plan must include provisions for maintaining plantings at a length not to exceed eight inches (8") in the area between the sidewalk and the street, or a strip not less than fifteen feet (15') adjacent to the street where there is no sidewalk, as well as a strip not less than four feet (4') adjacent to neighboring property lines unless waived in writing by the abutting property owner on the side so affected. Any such waiver of the requirements shall be affixed to the application and plan. No area of city owned property within any street right-of-way may be included within a land management plan. This shall include the property between the sidewalk and the street and not less than fifteen (15) feet adjacent to the street where there is no sidewalk. As a condition of receiving approval of a land management permit, the applicant agrees and understands to mow or cut any grass or plantings when ordered to do so by the health officer or any other city official or designee thereof.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0810. Permit application--Review.--An application for a land management plan permit shall be on a form provided by the city shall be submitted to the forestry department. A copy of the application shall be mailed to each of the owners of record, as listed in the office of the City Assessor, who are owners of the property situated in whole or in part within 200 feet of the boundaries of the properties affected. The application and any related information shall be considered by the city forester. The city forester shall have authority, after reviewing all appropriate materials and information, to approve or deny the application. An applicant who has had a permit denied or revoked, or an affected property owner in the event a permit is granted, may appeal the decision of the city forester to the board of adjustment. Such appeal must be made in writing within fifteen (15) days of the city forester's decision and shall be heard at a regular meeting of the board of adjustment.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0811. Owner or occupant's responsibilities concerning land management plan.--An owner or occupant receiving a land management plan permit agrees to maintain any grass or plantings so as not to present hazards or to create a nuisance for adjoining properties, or to persons or vehicles traveling on the public ways. An owner or occupant receiving such permit also agrees to manage and maintain such grass or plantings such that they do not present a hazard to structures on affected land and to maintain such plantings as to enhance the appearance of the property on which they are located.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0812. Authority of city to manage and control grass and plantings within an area

included within a land management plan.--Notwithstanding issuance of a land management permit, the city may order the cutting of such grass or plantings included within a land management plan at any time the city determines that the growth may constitute a fire or safety hazard as to cause danger to the safety of the inhabitants of any residential structure on located on the premises or to the citizens and residents of the neighborhood. Any costs incurred by the city shall be charged to the owner, occupant, or person in control of the property as authorized under this article.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0813. Spitting or throwing litter of any kind prohibited in public places in city.--No person shall spit, expectorate, or throw litter upon the sidewalks or crossings of any street, avenue, alley, or driveway within the corporate limits of the city, or upon the floors, stairs, or hallways within, or sidewalks leading to or from any public building or public form of transportation.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0814. Littering on private property prohibited.--No person may discard or abandon any litter, garbage, furniture, or other debris upon public or private property not owned by that person, unless the property is designated for the disposal of such items and that person is authorized to use the property for that purpose. For purposes of this section, litter shall include any rubbish, junk, refuse, or waste of any kind. A violation of this section shall be punishable as a noncriminal offense as described in section 1-0305(C)(6).

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0815. Buildings not allowed to become foul.--No owner or occupant of any building or premises within the city shall allow the same to become foul, nauseous, or offensive.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0816. Sanitary sewers, building sewers and connections.--Any sanitary sewer or building sewer connection shall comply with all other requirements of the Fargo Municipal Code or any applicable building or plumbing code.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0817. Unlawful deposit, drainage or seepage of sewage or foul substance.--It shall be unlawful for any person, firm, corporation, occupant, or agent or employee thereof, to deposit, drain, or to allow the deposit, drainage or seepage of sewage or foul substance in or onto any private or public ground within the city.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0818. Cellar, vault, private drain, cesspool, or sewer not to become nauseous.--No person shall allow or permit any cellar, vault, private drain, cesspool, or sewer upon any premises belonging to or occupied by him or her within the limits of the city to become foul, offensive, or injurious to the public health.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0819. Violations and nuisances, health officer's duty to remedy violations and abate, notice.--Upon finding a violation of any section in article 11-08, the health officer, or his designee, shall provide notice to the owner, occupant, or person in control of the property of the violation

along with a deadline within which to correct the violation. If the violation is not corrected by the deadline, the health officer, or his designee, is authorized to take further enforcement action to remedy the violation or to abate the nuisance. Any costs associated with correcting the violation or abating the nuisance shall be chargeable to the property as otherwise authorized under this article.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0820. Expenses of corrective action to be charged as special assessments.--Any expenses incurred by the health department in connection with enforcing any provisions of this article may be charged as a special assessment against the lot or parcel of land for which enforcement action was taken. Such expenses shall be certified by the health department to the city auditor to be collected as a special assessment. In August of each year the board of city commissioners shall review all assessments, and hear all complaints against the same, and approve the same as finally adjusted, and such special assessment shall then be certified to the county auditor and be placed upon the tax roll for that year and be collected as other city taxes.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0821. Penalties for violation.--Any person, firm, company, or corporation violating any provision in article 11-08, other than section 11-0814, shall upon conviction, be punished by a fine not to exceed \$500, with the court having such power and discretion to suspend such fine and to revoke suspension thereof. Each day any person, firm, company, or corporation shall violate the provisions of this article shall constitute a separate offense. Notwithstanding the provisions of this section, any violation of this article may be enforced through the administrative enforcement procedure, article 1-04.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0822. Entrance by health officer for abatement of nuisance, source of filth, cause of sickness.--The health officer or director of public health shall have authority described in section 13-0206 to enter any building within the jurisdiction of the public health department to examine, destroy, remove, or prevent any nuisance, source of filth, or cause of sickness.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0823. Property agent to disclose name of principal to health department.--Upon application being made therefor by any inspector, agent, or officer of the health department, every agent or other person having the charge, control, or management of, or who collects or receives the rents of any lands, premises, or other property in the city, shall disclose the name or names of the person or persons for whom such agent or other person is acting.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

## ARTICLE 11-09

### LITTERING OF PUBLIC PLACES BY CONTRACTORS

#### Section

- 11-0901 Unlawful dumping and littering by contractors.
- 11-0902 Vehicles to be clean before entering public street.
- 11-0903 Streets to be maintained in a litter-free condition.
- 11-0904 Liability of contractor.

- 11-0905      Cleaning up littered streets.  
11-0906      Exceptions.  
11-0907      Penalty for violation of article.

11-0901 Unlawful dumping and littering by contractors.--No contractor shall allow any vehicle to operate out of any construction site, regardless of whether the same shall be operated by the contractor, his agents, employees, or subcontractors, in such a manner as to dump, scatter, or deposit any rubbish, stones, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, twigs, shrubs, construction waste, garbage, or other offensive or nauseous material on any street, alley, or public place. The commissioner of streets shall be and hereby is empowered to order any contractor to take such precautions as he deems necessary to prevent any such foreign materials from being deposited on the street, alley, or public place and to remove all foreign material on the street, alley, or public place. If and in the event any contractor shall fail to comply with the order of the commissioner of streets, said commissioner, or the chief of police, may order all construction stopped.

Source: 1952 Rev. Ord. 1122 (1962).

11-0902. Vehicles to be clean before entering public street.--No contractor or other person shall permit a vehicle to enter upon a public street, alley, sidewalk, or other public place without first (a) having its tires and wheels cleaned so as not to litter or soil any street, alley, sidewalk, or other public place, and (b) having any material removed from the interior or exterior of vehicle body which might fall or be deposited upon any street, alley, sidewalk, or public place by normal movement of vehicle in traveling over such places.

Source: 1952 Rev. Ord. 1122 (1962).

11-0903. Streets to be maintained in a litter-free condition.--All streets, alleys, sidewalks, or public places adjacent to any building or construction site shall be maintained in a litter-free condition at all times. This shall include such soiling or littering caused by erosion, landslides, or general construction activities at any such site.

Source: 1952 Rev. Ord. 1122 (1962).

11-0904. Liability of contractor.--Whenever a contractor is engaged in any construction or maintenance activity, it shall be his responsibility to see that none of the provisions of this article are violated by himself, his agents, employees, subcontractors, or haulers of materials and supplies. If more than one contractor or any governmental unit is involved in work which contributes to the littering of streets, alleys, sidewalks, or other public places in the same site or area, they shall be separately and jointly responsible for compliance with the provisions of this article.

Source: 1952 Rev. Ord. 1122 (1962).

11-0905. Cleaning up littered streets.--If a street, alley, sidewalk, or public place should become soiled or littered through any of the means outlined in §§ 11-0901 and 11-0903, the person or persons responsible shall cause such soiling or littering to be cleaned up forthwith. If and when the person or persons responsible fail to comply with any order of the chief of police or commissioner of streets to clean up or take such precautions as the chief of police or commissioner deems necessary to prevent foreign materials from being deposited on any street, alley, or public place, then the chief of police or commissioner may order (in writing) all ingress and egress to the site or area involved stopped until compliance with the order is effected.

Source: 1952 Rev. Ord. 1122 (1962).

11-0906. Exceptions.--The provisions of this article shall not apply to construction work within the barricaded area of work being done in the street right-of-way, pursuant to a city excavation permit authorizing the same or to certain emergency or other work being performed within a barricaded area pursuant to a city contract or by certain emergency forces, provided that excavated material stored temporarily within the barricaded area shall not be scattered or carried or allowed to accumulate outside of such area.

Source: 1952 Rev. Ord. 1122 (1962).

11-0907. Penalty for violation of article.--Every person, firm, association, or corporation convicted of a violation of any of the provisions of this article or of any failure to comply with any order of the chief of police or commissioner of streets, shall upon conviction, be punished by a fine of not to exceed \$100 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the court, the court to have power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, association, or corporation shall violate any of the provisions of this article shall constitute a separate offense.

Source: 1952 Rev. Ord. 1122 (1962).

## ARTICLE 11-10

### PIGEONS AND HARMFUL WILD BIRDS

#### Section

- 11-1001 Pigeons and harmful wild birds--Public nuisance.
- 11-1002 Extermination of pigeons and harmful wild birds--Permit required.
- 11-1003 Extermination only by licensed exterminator.
- 11-1004 Method of extermination.

11-1001. Pigeons and harmful wild birds--Public nuisance.--Pigeons (a/k/a rock doves) and harmful wild birds as defined in § 20.1-01-02, N.D.C.C., which exist within the corporate limits of the city are hereby declared to be a public nuisance subject to extermination as hereinafter provided.

Source: 2121 (1983).

11-1002. Extermination of pigeons and harmful wild birds--Permit required.--No person, firm or corporation shall exterminate pigeons or other harmful wild birds without first having obtained a permit from the Fargo health department. Application for such permit shall be on forms to be provided by the city and the permit shall specify the method of extermination to be utilized.

Source: 2121 (1983).

11-1003. Extermination only by licensed exterminator.-- A permit for the extermination of pigeons and other harmful wild birds shall be issued only to persons, firms or corporations which are licensed as exterminators pursuant to the provisions of article 25-21 of the Revised Ordinances of 1965 of the City of Fargo.

Source: 2121 (1983).

11-1004. Method of extermination.--Pigeons and other harmful wild birds shall be exterminated in a manner which is consistent with the health and safety of persons and other living creatures and shall be subject to the approval of the health department. The method of extermination shall be clearly indicated on the permit.

Source: 2121 (1983).