

CHAPTER EIGHTEEN

PROPERTY NUISANCES

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CHAPTER EIGHTEEN  
PROPERTY NUISANCES

**ARTICLE 1 – Property Nuisances**

The provisions of Chapter 39-26 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this article.

**18.0101 Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Abandoned motor vehicle” - means any motor vehicle, hereafter defined, regardless of model years or age of the motor vehicle, that has remained for a period of 48 hours or more on public property illegally or lacking vital component parts, or has remained for a period of 48 hours or more on private property without the consent of the owner or occupant of such property or in an inoperable condition such that it has no substantial potential further use consistent with its usual functions unless it is kept in an enclosed garage or storage building. It also means a motor vehicle voluntarily surrendered by its owner to a duly licensed scrap iron processor. An antique automobile, and other motor vehicles to include parts cars and special interest vehicles, may not be considered an abandoned motor vehicle within the meaning of this article.
2. “Antique motor vehicle” - means any motor vehicle, hereafter defined, which is at least forty years old and has a current license pursuant to Section 39-04-10.4 of the North Dakota Century Code.
3. “Blighted structure” - includes, without limitation, any dwelling, garage, or out building, or any factory, shop, store, warehouse, or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling nor useful for the purpose for which it may have been used or intended.
4. “Building materials” - includes, 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 materials used in constructing any structure.
5. “Department” - means the city police department, the city street department, a state-licensed peace officer, or the state or county health department.
6. “Junk” - includes, without limitation, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal, or

other castoff material of any kind, whether or not the same could be put to any reasonable use.

7. "Junk automobile" - includes, without limitation, any motor vehicle, hereafter defined, regardless of the age of the motor vehicle, which is not licensed for use upon the highways of the state for a period in excess of 30 days, and shall include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 30 days, provided that there is excepted from this definition unlicensed but operative vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.
8. "Motor vehicle" - includes every vehicle which is self-propelled, every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and, for purposes of motor vehicle registration, title registration, and operator's licenses, motorized bicycles. The term "motor vehicle" does not include a snowmobile hereafter defined.
9. "Parts car" - means a motor vehicle generally in non-operable condition which is owned by the collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle.
10. "Snowmobile" - means a self-propelled vehicle designed for travel on snow, ice, or a natural terrain and steered by skis or runners.
11. "Special interest vehicle" - means a motor vehicle, previously defined, which is at least twenty years old and which has not been altered or modified from the original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
12. "Trash or rubbish" - includes any and all forms of debris not herein otherwise classified.
13. "Vital component parts" - means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels.

#### **18.0102 Storage or accumulation of trash, rubbish, junk, etc. contrary to public health and safety**

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

#### **18.0103 Unlawful to store or accumulate trash, rubbish, junk, etc.; exception**

It shall be unlawful for any person to store, or permit the storage or accumulation of, trash, rubbish, junk, junk automobiles, or abandoned motor vehicles on any private property in the city except within a completely enclosed building, or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in second-hand goods or junk gatherer.

**18.0104 Unlawful to abandon motor vehicle without property owner's consent**

It shall be unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the owner or occupant of such property.

**18.0105 Unlawful to dismantle motor vehicle; exception**

It shall be unlawful for any person to dismantle, cut up, remove parts from, or otherwise disassemble any motor vehicle, whether or not the same be a junk automobile, abandoned vehicle, or otherwise, or appliance or machinery except in a completely enclosed building or the business premises of a duly licensed junk dealer.

**18.0106 Storage or accumulation of building materials prohibited; exception**

It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building, or except where such building materials are part of the stock in trade of a business located in said property, 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 and such construction is completed within a reasonable time.

**18.0107 Conditions under which a junk or abandoned vehicle may be sold immediately**

When a junk automobile or an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in the state or any other state or foreign country, it is immediately eligible for disposition and must be disposed of to a scrap iron processor licensed under Section 39-26-10 of the North Dakota Century Code and is not subject to the notification, reclamation, or title provisions of this article. Any license plate displayed on any such vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle.

**18.0108 Notice required to owner of junk or abandoned vehicle**

1. When a junk automobile or an abandoned motor vehicle does not fall within the provisions of 18.0107, the city shall give notice of the taking within ten days. The notice must set forth the date and place of the taking, the year, make, model and serial number of the junk automobile or the abandoned motor vehicle and the place where the vehicle is being held. The notice must also inform the owner and any lienholders or secured parties of their right to reclaim the vehicle under 18.0109 and must state that failure of the owner or lienholders or secured parties to exercise their

right to reclaim the vehicle is deemed a waiver by them of all right, title, and interest in the vehicle, and constitutes a consent to the sale of the vehicle at a public auction or sale under 18.0110.

2. The notice must be sent by mail to the registered owner, if any, of the junk automobile or the abandoned motor vehicle and to all readily identifiable lienholders or secured parties of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice must be published once in a newspaper of general circulation in the area from where the motor vehicle was taken into custody. Published notices may be grouped together for convenience and economy.

#### **18.0109 Right of owner to reclaim junk or abandoned vehicle**

1. The owner, any lienholder, or secured parties of a junk automobile or an abandoned motor vehicle has a right to reclaim such vehicle from the unit of government taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 days after the date of the notice required by 18.0108.
2. Nothing in this article may be construed to impair any lien of a garagekeeper under the laws of this state or the right of a lienholder or secured parties to foreclose. For the purposes of this section, the term "garagekeeper" means an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

#### **18.0110 Public auction or sale; disposition of proceeds**

1. A junk automobile or an abandoned motor vehicle not more than seven model years of age taken into custody and not reclaimed under 18.0109 must be sold to the highest bidder at a public auction or sale, following reasonable published notice thereof. The purchaser must be given a receipt in a form prescribed by the department which shall be sufficient title to dispose of the vehicle. The receipt also entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The license plates displayed on any vehicle sold under this section must be removed and destroyed prior to the purchaser taking possession of the vehicle. From the proceeds of the sale of an abandoned motor vehicle, the city shall reimburse itself for the cost of towing, preserving, and storing the vehicle, and all notice and publication costs incurred pursuant to this article. Any remainder from the proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or secured parties for ninety days and then must be deposited in the state treasury as provided in Section 1 of article IX of the Constitution of North Dakota and credited to the permanent school fund.

#### **18.0111 Disposal of vehicle not sold**

Where no bid has been received for a junk automobile or an abandoned motor vehicle, the city may dispose of it pursuant to contract under 18.0112

### **18.0112 Contracts for disposal**

The city may contract with any qualified licensed scrap iron processor for collection, storage, incineration, volume reduction, transportation, or other services necessary to prepare junk automobiles or abandoned motor vehicles and other scrap metal for recycling or other methods of disposal. Such contract may authorize the contracting scrap iron processor to pay to the owner of any junk automobile or abandoned motor vehicle an incentive payment for such vehicle if it is voluntarily surrendered and delivered to the scrap iron processor. For the purpose of this section, the term "owner of a junk automobile or abandoned motor vehicle" includes only a person who has owned and operated the vehicle for the person's personal or business use.

### **18.0113 Restrictions on storage of vehicles by collector**

A collector may store unlicensed, operable, or inoperable vehicles, and parts cars, including antique motor vehicles, junk automobiles, and abandoned motor vehicles, and special interest vehicles, on the collector's property provided such vehicles and parts cars are kept in an outdoor storage area which is maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery, or other appropriate article.

### **18.0114 Abatement of Nuisance - Penalty**

The cost of removal of any junk, junk automobiles and abandoned vehicles may be assessed against the property where said junk, junk automobiles and abandoned vehicles are located at the time the notice was issued. Such removal and assessment of costs shall not be deemed to be the exclusive remedy of the city. Violation of any of the provisions of this article is an infraction, punishable in accordance with Section 02.0209 of the New England Municipal Code. Each day of violation shall be deemed to be a separate infraction.

