

CHAPTER ELEVEN

HEALTH

ARTICLE 1 - Board of Health3

ARTICLE 2 - Local Health Officer.....3

ARTICLE 3 – Anhydrous Ammonia Nurse Tank Wagons3

- 11.0301 Definitions
- 11.0302 Nurse Tank Hitch, Chains, and Maintenance
- 11.0303 Speed limit
- 11.0304 Hours Restricted
- 11.0305 Routes
- 11.0306 Parking
- 11.0307 Marking
- 11.0308 Towing In Tandem
- 11.0309 Penalty

ARTICLE 4 - Dangerous Buildings6

- 11.0401 Dangerous Buildings Defined
- 11.0402 Standards for Repair, Vacation or Demolition
- 11.0403 Dangerous Buildings - Nuisances
- 11.0404 Duties of City Building Inspector
- 11.0405 Duties of City Governing Body
- 11.0406 Failure to Comply with Decision of the City Governing Body
- 11.0407 Violations - Penalty for Disregarding Notices or Orders
- 11.0408 Duties of the City Attorney
- 11.0409 Where Owner Absent from the City
- 11.0410 Duties of Fire, Police, and Health Departments
- 11.0411 Appeal

ARTICLE 5 – Noise Regulation12

- 11.0501 Declaration of Purpose and Intent
- 11.0502 Definitions
- 11.0503 General Prohibition of Noise Disturbance
- 11.0504 Specific Prohibitions
- 11.0505 General Decibel-Based Limitations
- 11.0506 Exemptions
- 11.0507 Enforcement/Penalties
- 11.0508 Variances

ARTICLE 6 – Requirements for Eating and Drinking Establishments.....18

- 11.0601 North Dakota Requirements for Food and Beverage Establishments Adopted

ARTICLE 7 – Tobacco – Minors19

- 11.0701 Definitions
- 11.0702 Sale to Minors Prohibited
- 11.0703 Sale by Minors Prohibited
- 11.0704 Purchase by Minors Prohibited
- 11.0705 Possession by Minors Prohibited
- 11.0706 Free Distribution Prohibited
- 11.0707 Sales Prohibited in Certain Locations
- 11.0708 Responsibility for Agency or Employee
- 11.0709 Penalty

APPENDIX.....20

CHAPTER ELEVEN

HEALTH

ARTICLE 1 – Board of Health

The City of New England has relinquished its authority relating to a Board of Health to the Southwestern District Health Unit, which has its main office in Dickinson, North Dakota.

ARTICLE 2 – Local Health Officer

The City of New England has relinquished its authority relating to a Local Health Officer to the Southwestern District Health Unit, which has its main office in Dickinson, North Dakota.

ARTICLE 3 – Anhydrous Ammonia Nurse Tank Wagons

11.0301 - Definitions

An "anhydrous ammonia nurse tank wagon" means a department of transportation approved tank wagon specifically designed for the transportation of anhydrous ammonia from the bulk storage area to the destination where it will be used.

"Safety chains" mean coupling devices of size and tensile strength as specified by the Federal Highway Administration, Department of Transportation, in Section 393.71 of Subpart F of Subchapter B "Federal Motor Carrier Safety Regulations," of Chapter III, Title 49, October 1, 1980 Edition.

11.0302 - Nurse Tank Hitch, Chains, and Maintenance

All anhydrous ammonia nurse tank wagons shall be equipped with a secure hitch with a safety clip in place when being towed through the city.

All anhydrous ammonia nurse tank wagons shall be equipped with safety chains to prevent the wagon from breaking loose in the event the tow-bar fails or becomes disconnected. The chains shall be crossed and attached to the towing vehicle near the point of tow-bar attachment or hitch. The length of chain shall be no more than necessary to permit free turning of the vehicles. The chains shall be attached to the tow-bar at the point of crossing or as close to that point as possible. The chains shall be so connected and installed so that if the tow-bar becomes disconnected, the tow bar will not drop to the ground.

Fittings, valves, hoses, tires, hitch, and safety chains shall be maintained in a safe working condition on any anhydrous ammonia nurse tank wagon which will be towed through the city. Any tank which has been damaged shall not be towed through the city until repairs have been made and the tank has been approved by the Department of Transportation.

11.0303 - Speed Limit

The speed limit while towing an anhydrous ammonia nurse tank wagon through the city shall not be more than twenty-five (25) miles per hour at any time.

11.0304 - Hours Restricted

No anhydrous ammonia nurse tank wagons may be towed or otherwise conveyed upon the streets, alleys, or highways within the city between sundown and sunrise.

11.0305 - Routes

Only those routes designated as truck routes in the city shall be used for transporting any anhydrous ammonia nurse tank wagon.

11.0306 - Parking.

Anhydrous ammonia nurse tank wagons shall not be parked at any time within the city limits.

11.0307- Marking

Anhydrous ammonia nurse tank wagons shall be marked and identified on each side and the rear thereof, on a background of sharply contrasting color, with the words "CAUTION AMMONIA" in letters not less than four (4) inches high.

11.0308 - Towing In Tandem.

Anhydrous ammonia nurse tank wagons may be hooked in tandem provided the two units and towing vehicle do not exceed seventy-five (75) feet in length.

11.0309 - Penalty

Any person violating the provisions of this Section shall be guilty of an infraction and upon conviction thereof, shall be fined five hundred dollars (\$500).

ARTICLE 4 – Dangerous Buildings

11.0401 Dangerous Buildings Defined

For the purpose of this Chapter, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or its occupants are endangered.

1. Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member, or portion thereof due to all dead and live loads are more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose, or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose, or location.
5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the Building Code for such buildings.
7. Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
8. Whenever the building, structure, or any portion thereof, because of:
 - a. dilapidation, deterioration, or decay;

- b. faulty construction;
 - c. the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building;
 - d. the deterioration, decay, or inadequacy of its foundation; or
 - e. any other cause, is likely to partially or completely collapse.
9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
10. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.
11. Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its non-supporting members, enclosing or outside walls, or coverings.
12. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become:
- a. an attractive nuisance to children;
 - b. a harbor for vagrants, criminals, or immoral persons; or as to
 - c. enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
13. Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location, or structure of buildings.
14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member, or portion less than fifty percent (50%), or in any non-supporting part, member, or portion less than sixty-six percent (66%) of the:
- a. strength,
 - b. fire-resisting qualities or characteristics, or

- c. weather-resisting qualities or characteristics required by law in the case of a newly- constructed building of like area, height, and occupancy in the same location.
15. Whenever a building or structure, used, or intended to be used, for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction, or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined by the local health officer to be unsanitary, unfit for human habitation, or is in such a condition that is likely to cause sickness or disease.
16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure, or whenever any building or structure is abandoned for a period in excess of six months, so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

11.0402 Standards for Repair, Vacation, or Demolition

The following standards shall be followed in substance by the City Building Inspector and the City governing body in ordering repair, vacation, or demolition:

1. If the “dangerous building” can be reasonably repaired so that it will no longer exist in violation of the terms of this Article it shall be ordered repaired.
2. If the “dangerous building” is in such condition as to make it dangerous to the health, safety, or general welfare of its occupant, it shall be ordered to be vacated.
3. In all cases where a building cannot be repaired so that it will no longer exist in violation to the terms of this Article it shall be demolished. In all cases where a “dangerous building” is a fire hazard, existing or erected in violation of the terms of this Article, or any ordinance of the City or statute of the State of North Dakota, it shall be demolished.

11.0403 Dangerous Buildings – Nuisances

All “dangerous buildings” within the terms of Section 11.0401 of this Article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as provided in this ordinance or under state law.

11.0404 Duties of City Building Inspector

The City Building Inspector, as designated by the City governing body, shall:

1. Inspect, or cause to be inspected periodically, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places a “dangerous building” within the terms of Section 11.0401 of this Article.
2. Inspect any building, wall, or structure about which any person files complaints to the effect that a building, wall, or structure is, or may be existing, in violation of this Article.
3. Inspect any building, wall, or structure reported by the Fire or Police Departments of this City as probably existing in violation of the terms of this Article.
4. Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building, as shown by the records in the office of the County Recorder, of any building found by the City Building Inspector to be a “dangerous building” within the standards set forth in Section 11.0401 of this Article that:
 - a. the owner must vacate, repair, or demolish said building in accordance with the terms of the notice and this Article;
 - b. the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this Subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty (30) days as may be necessary to do, or have done, the work or act required by the notice provided for herein. (see Appendix 14-2)
5. Set forth in the notice provided for in Subsection 4 hereof a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a “dangerous building”, and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty (30) days, as is reasonable.
6. Report to the City governing body any noncompliance with the “notice” provided for in Subsection 4 and 5 hereof.
7. Appear at all hearings conducted by the City governing body and testify as to the conditions of “dangerous buildings”.

8. Place a notice on all “dangerous buildings” reading as follows: “This building has been found to be a dangerous building by the City Building Inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the County Recorder. It is unlawful to remove this notice until such notice is complied with.” (see Appendix 14-1)

11.0405 Duties of the City Governing Body

The City governing body shall:

1. Upon receipt of a report of the City Building Inspector as provided for in Section 11.0404, Subsection 6 hereof, give written notice to the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the County Recorder, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a “dangerous building” should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the City Building Inspector’s notice provided for herein in Section 11.0404, Subsection 5. (see Appendix 14-3)
2. Hold a hearing and hear such testimony as the City Building Inspector or the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the records of the County Recorder shall offer relative to the “dangerous building”.
3. Make written findings of fact from the testimony offered pursuant to Subsection 2 as to whether or not the building in question is a “dangerous building” within the terms of Section 11.0401 hereof.
4. Issue an order based upon findings of fact made pursuant to Subsection 3 commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the County Recorder to repair, vacate, or demolish any building found to be a “dangerous building” within the terms of this Article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said “dangerous building”.

11.0406 Failure to Comply with Decision of the City Governing Body

If the owner, occupant, mortgagee, or lessee fails to comply with the order of the City governing body, or fails to appeal to the District Court within thirty (30) days as provided herein, the City through its officers and employees shall cause such building or structure to be repaired, vacated, or demolished as ordered by the City governing body and shall cause the costs of such repair, vacation, or demolition to be charged against the land on which said building existed by special assessment, or as a municipal lien, or shall cause said cost of removal to be levied as a special tax against the land upon which said building stands, or did stand, or to be recovered in a suit at law against the owner.

11.0407 Violations – Penalty for Disregarding Notices or Orders

The owner of any “dangerous building” who shall fail to comply with any notice or order to repair, vacate, to demolish said building given by any person authorized by this Article to give such notice or order shall be guilty of an infraction, and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500) for each offense and every day subsequent to such notice in which the said owner shall fail to comply with any notice or order as stated shall be deemed a separate offense.

The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said building in accordance with any notice given as provided for in this Article shall be guilty of an infraction and subject to a fine not exceeding five hundred dollars (\$500) for each offense and every day subsequent to such notice in which the said occupant or lessee shall fail to comply with any notice or order as above stated, shall be deemed a separate offense.

Any person removing the notice provided for in Subsection 8 of Section 11.0404 shall be guilty of an infraction and upon conviction shall be subject to a fine not exceeding five hundred dollars (\$500) for each offense.

11.0408 Duties of the City Attorney

The City Attorney shall:

1. Prosecute all persons failing to comply with the terms of the notices provided for in Section 11.0404, Subsections 4 and 5 and the order provided for in Section 11.0405, Subsection 4.
2. Appear at all hearings before the City governing body in regard to “dangerous buildings”.
3. Take such other legal action as is necessary to carry out the terms and provisions of this Article.

11.0409 Where Owner Absent from the City

In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the City, all notices or orders provided for herein shall be sent by registered or certified mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the land records of the County Recorder to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

11.0410 Duties of Fire, Police, and Health Departments

All employees of the Fire, Police, and Health Departments shall make written reports to the City Building Inspector of all buildings or structures which are, may be, or are suspected to be "dangerous buildings" as herein defined.

11.0411 Appeal

The City governing body shall serve upon the owner, occupant, mortgagee, lessee, and all other persons having an interest in any building ordered to be repaired, vacated, or demolished, a copy of its order. The owner, occupant, mortgagee, or lessee shall thereafter have thirty (30) days from the date of the service of such order in which to appeal from such order to the District Court or to take such other legal steps to enjoin the enforcement of such order.

ARTICLE 5 – Noise Regulation

11.0501 Declaration of Purpose and Intent

1. Having determined that the exposure of its citizens to excessive noise creates the risk of physiological and psychological harm, the City of New England hereby declares the necessity of controlling the level of noise within the community. The necessity for the provisions and prohibitions contained in this Article is therefore declared as a matter of legislative determination and public policy.
2. It is further declared that the provisions and prohibitions of this Article are for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and prosperity, and the peace and quiet of the city and its inhabitants.
3. This ordinance makes use of the zoning classifications and districts contained in the City's zoning ordinances, as they presently exist or may be amended from time to time. However, this ordinance is enacted separately and independently of said zoning ordinances and shall not be considered an extension or part thereof, nor shall it be considered to modify said zoning ordinances.

11.0502 Definitions

For the purpose of this Article, certain words and phrases are defined as follows:

1. “dB (A)” means the A-weighted sound level in decibels, as measured with a sound level meter that meets the requirements for a type 1, 2, S1A or S2A in American National Standard Specification for Sound Level Meters ANSI S1.4.
2. “Noise” means any sound.
3. “Noise Disturbance” means any loud, unnecessary, or unusual noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the city.
4. “Person” means any person, partnership, association, joint venture, corporation, or other entity, public or private.
5. “Real Property Boundary” (or “property boundary”) means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.
6. “Land Use District” means the zoning districts identified by the City of New England Zoning Ordinance, as it may be amended from time to time. “Residential” shall include the R-1, R-2, and MH classifications.

11.0503 General Prohibition of Noise Disturbance

1. No person shall make, continue, or cause to be made or continued, any noise disturbance.
2. The standards which shall be considered in determining whether a violation exists under this Section include, but are not 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. The proximity of the noise to residential sleeping facilities.
 - g. The nature and zoning of the area into which the noise emanates.
 - h. The density of inhabitation of the area into which the noise emanates.
 - i. The time of day or night the noise occurs.
 - j. The duration of the noise.
 - k. Whether the noise is recurrent, intermittent, or constant.
 - l. Whether the noise is produced by a commercial or noncommercial activity.
3. The noise need not exceed the decibel levels in Section 14-05-05 to be in violation of this Section.

11.0504 Specific Prohibitions

The following acts, or the causing thereof, are declared to be in violation of this ordinance.

1. The sounding of horns or signaling devices on any motor vehicle or motorcycle on any street or public place except as a danger warning.
2. Radios, phonographs, etc. The using, operating, or permitting to be played, used, or operated, any radio receiving set, musical instrument, phonograph, or other machine or device for the producing, or reproducing, of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person, or persons, who are in the room, vehicle, or chamber in which such machine or device is operated, and who are voluntary listeners thereto. The operations of any such set, instrument, phonograph, machine, or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this Section.
3. Loudspeakers, amplifiers for advertising. The using, operating, or permitting to be played, used, or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, amplifier, or other machine or device for the producing or reproducing of sound, which is cast upon the public streets for the purpose of commercial advertising, or attracting the attention of the public to any building or structure.
4. Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 10:00PM and 7:00AM, 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, churches, medical facility. The creation of any excessive noise on any street adjacent to any school, church, or medical facility while the same are in use.
6. Animals and Birds. Owning, possessing, or harboring any animal or bird which frequently, or for continued durations, howls, barks, yelps, squawks, or makes other sounds which create a noise disturbance across a residential real property boundary.
7. Loading and Unloading. Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, or similar objects between the hours of 10:00PM and 7:00AM the following day in such a manner as to cause a noise disturbance across a residential real property boundary. This Subsection does not apply to garbage pickup activities, or agricultural hauling, loading, or unloading, and city street sweeping.
8. Excessive barking, howling, or other noise-making of animals. Barking, howling, or other noise-making of animals is deemed excessive when:

- a. It is continuous for a five (5) minute duration or longer between the hours of 10:00PM and 7:00AM the following day;
- b. It is continuous for a ten (10) minute duration or longer between the hours of 7:00AM and 10:00PM; or
- c. Intermittent occurrences totaling thirty (30) minute per day.

11.0505 General Decibel-Based Limitations

It is also unlawful for any person to project a sound or noise onto another property which exceeds the limits set forth for the receiving land use category, when measured at or within the property boundary of the receiving property. Sound or noise projecting from one land use district into another land use district with a different noise level limit may not exceed the limits of the district into which the noise or sound is projected.

Maximum number of dB(A) permitted from 7:00AM until 10:00 PM daily

Residential – 55 Commercial - 65

Maximum number of dB(A) permitted from 10:00PM until 7:00AM daily

Residential – 50 Commercial - 60

11.0506 Exemptions

The following sounds are exempt from the provisions of this Article at all times:

1. Noises caused by motor vehicles used for highway maintenance or noises caused in the performance of emergency work for the immediate safety, health, or welfare of the community or of individuals of the community, or to restore property in a safe condition following a public calamity.
2. Sounds created by bells, chimes, or carillons not operating for more than five minutes in any hour.
3. Sounds originating from aircraft flying in accordance with or pursuant to applicable Federal Laws or regulations.
4. Sounds created by safety and protective devices, such as relief valves, where noise suppression would defeat the safety release purpose of the device.
5. Sounds created by fire alarms and emergency equipment operated by law enforcement, fire fighters, and aid personnel. Sounds originating from parades and other events to which the general public is solicited to attend without charge and sounds originating from league or school sponsored athletic events.
6. Non-commercial public speaking and public assembly activities conducted on any public space or right-of-way.
7. The unamplified human voice.

11.0507 Enforcement/Penalties

1. The City police department shall be authorized to administer and enforce the provisions of this Article. All written and signed noise complaints shall be investigated by the City police department.
2. Any person violating any provision of this Article shall be guilty of an infraction, for which the penalty is a fine not less than twenty-five dollars (\$25) and not to exceed five hundred dollars (\$500).
3. Each day of violation of any provision of this ordinance shall constitute a separate offense.
4. Violations under Section 11.0505 shall be established by means of a sound level meter that meets the requirements for type 1, 2, S1A or S2A in American National Standard Specification for Sound Level Meters ANSI S1.4.

11.0508 Variances

The City Council shall have the authority, consistent with this Section, to grant special variances, including extensions of time to comply, which may be requested. Any person seeking a special variance pursuant to this Section shall file an application with the City Auditor. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this ordinance would constitute an unreasonable hardship on the applicant, the community, or on other person. Notice of an application for a special variance shall be published for two (2) consecutive weeks in the official newspaper, with the last publication occurring at least one (1) week before the scheduled hearing before the City Council. Notice of an application shall also be mailed by applicant to adjacent property owners and residents.

Any person who claims to be adversely affected by the allowance of the special variance may file a statement with the City Council containing any information to support his claim and speak against the application at the hearing. In determining whether to grant or deny the application, the City Council shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety, and welfare of the persons and property affected.

Any variance granted by the City Council shall contain all the conditions under which the variance has been granted and shall specify a reasonable time that the variance is effective.

ARTICLE 6 – Requirements for Eating and Drinking Establishments

11.0601 North Dakota Requirements for Food and Beverage Establishments Adopted

There is hereby adopted by reference the North Dakota Administrative Code , Title 33, Article 33, Section 04, Subsection 01 to 144 inclusive by the governing body of the City of New England, for the purpose of prescribing regulations governing standards, relative to bakeries, bars, meat markets, groceries, restaurants, mobile food units, temporary units, or any other food service establishments. A copy of which has been filed in the office of the City Auditor.

ARTICLE 7 – Tobacco - Minors

11.0701 Definitions

The following terms shall, for the purpose of this Article, have the meanings herein ascribed to them:

1. “Minor” - A person less than twenty-one (21) years of age.
2. “Tobacco Product” - Any item, product, or substance containing tobacco leaf, including, without limitation, cigarettes, cigars, snuff, pipe tobacco, chewing tobacco, dipping, and liquid tobacco.

11.0702 Sale to Minors Prohibited

It shall be unlawful for any person to sell, give away, offer to sell, offer to give away, or deliver any tobacco product to a minor. It also shall be unlawful for any person to cause or allow any minor to purchase any tobacco product within the city limits.

11.0703 Sale by Minors Prohibited

It shall be unlawful for any minor to sell any tobacco product within the city limits.

11.0704 Purchase by Minors Prohibited

It shall be unlawful for any minor to purchase any tobacco product within the city limits.

11.0705 Possession by Minors Prohibited

It shall be unlawful for any minor to possess any tobacco product within the city limits.

11.0706 Free Distribution Prohibited

It shall be unlawful for any person to distribute, give away, or deliver any tobacco product free of charge to any person on any public right-of-way, or any village-owned property for the purpose of advertising or promoting any tobacco product.

11.0707 Sales Prohibited In Certain Locations

It shall be unlawful for any person to sell, give away, offer to sell, offer to give away, or deliver any tobacco product within one-hundred feet (100') of the property of any school, or the property on which a building is located and used for education or recreational purposes or programs involving minors.

11.0708 Responsibility for Agency or Employee

Every act constituting a violation of this Chapter by an agency or employee of any person shall be deemed and held to be the act of such person, and such person shall be punishable in the same manner as if such act had been done by such person personally.

11.0709 Penalty

Any person who violates any provision of this Article shall be guilty of an infraction and fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for each offense. (Source: Section 12.1-31-03 of the North Dakota Century Code)

The penalty structure for retailers violating the regulations governing sale and distribution is available at <https://www.fda.gov/tobacco-products/compliance-enforcement-training/ctp-compliance-enforcement>

APPENDIX

- 11-1 Warning
- 11-2 Dangerous Building – Notice of Order
- 11-3 Dangerous Building – Notice of Hearing

APPENDIX 11-1

WARNING

This building has been found to be a dangerous building by the City Building Inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the County Recorder. It is unlawful to remove this notice until such notice is complied with.

City Building Inspector

_____, North Dakota

APPENDIX 11-2

**IN THE MATTER OF A “DANGEROUS BUILDING” LOCATED IN
THE CITY OF _____, NORTH DAKOTA,
WITH AN ADDRESS OF:**

NOTICE AND ORDER

You are hereby notified that the undersigned, Building Inspector of the City of _____, North Dakota, acting pursuant to Article 4, Chapter 14 of the 2021 Revised Ordinances of the City of _____, has made an inspection of the following described building in which you are, or appear to be, interested:

You are further notified that the undersigned City Building Inspector deems the foregoing described building to be dangerous within the meaning of Section 11.0401 of said Ordinances in the following particulars: _____

YOU ARE THEREFORE ORDERED TO _____

the said building on or before this _____ day of _____, 20____.

City Building Inspector _____

Dated this _____ day of _____, 20____.

APPENDIX 11-3

**IN THE MATTER OF "DANGEROUS BUILDINGS" LOCATED
AT _____, NORTH DAKOTA
UNDER ARTICLE 4, CHAPTER TEN**

NOTICE OF HEARING

You are hereby notified that the Building Inspector of _____, North Dakota, has filed with the _____ City Council a report that you have not complied with a Notice and Order that buildings located at:

were dangerous buildings and were to be demolished by you prior to _____, 20_____.

You are further notified to appear before the _____ City Council at _____
_____ on the _____ day of _____, 20_____.

at the hour of _____ o'clock ____ m., to show cause as to why the building reported to be a "dangerous building" should not be demolished in accordance with the statement of particulars set forth in the City Building Inspector's Notice.

Dated _____, 20_____.

THE CITY OF _____, NORTH DAKOTA

By _____
Mayor

ATTEST:

City Auditor

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