

Chapter 24 NUISANCES

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Section 24.ED.010 Editor's note to Chapter 24

As to keeping of fowl, see §§ 5.04.040, 5.04.050 of this Code. As to certain dogs, see § 5.08.04.020. As to garbage and refuse generally, see Ch. 18. As to abatement of nuisances by public health officer, see § 20.04.070. As to uninvited calls by peddlers, hawkers, and transient merchants, see § 28.04.010. As to excavation in streets or sidewalks as attractive nuisance, see § 33.12.110.

Article 24.04 In General

Sections:

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Section 24.04.010 Abandoned property; property in violation of ordinances, etc.--Generally

Any article of personal property located within the city, the use, condition or status of which is in violation of any provision of this Code or other ordinance of the city or any law of the state or which constitutes any obstruction, hazard or detriment to public traffic, 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 or personal property abandoned or unclaimed within the city for a period of ten days or more, is hereby declared to be a nuisance and shall be abated in the manner provided by section 24.04.020. (Code 1958, § 21-1.)

For power of city as to abandoned property, see NDCC, § 40-05-02 (20).

Section 24.04.020 Same--Removal and impoundment by police

The police department of the city may remove or cause to be removed to the city hall or any other place within the city selected for the purpose any personal property described in section 24.04.010 and may impound and retain such property 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. (Code 1958, § 21-1.)

Section 24.04.030 Same--Creation, continuance or maintenance

Any person who may create, continue, maintain or suffer to exist a nuisance, as defined in section 24.04.010 shall be guilty of a misdemeanor. (Code 1958, § 21-1.)

Section 24.04.040 Same--Sale

If not reclaimed and redeemed by the true owner or the person lawfully entitled to the possession thereof within a period of sixty days after impounding, any article of personal property described in section 24.04.010 may be sold and disposed of by the police department of the city.

Notice that such property will be sold shall be published once at least ten days prior to the sale in a newspaper published in the city. Such notice shall specify a description of the property to be sold, the time and place of sale and shall be signed by the chief of police of the city.

Such sale shall be held between the hours of 9:00 a.m. and 5:00 p.m. of the day specified in the notice. Such sale shall be held at the front door of the city hall or at the location of the property to be sold.

Any sale may be postponed or discontinued by public announcement at the time of the sale when there are no bidders, when the amount offered is grossly inadequate or for other reasonable cause. The city may become purchaser of any or all property at such sale.

The chief of police shall give the purchaser at such sale a bill of sale of such property.

Within thirty days after such sale, the person making the sale 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 contingent fund.

Any time within six months after such sale, the owner of the property shall be entitled to receive from the city the proceeds of such sale, less all expenses incurred by the city in relation thereto. (Code 1958, § 21-2.)

Section 24.04.050 Dry cleaning establishments--"Dry cleaning" defined

Dry cleaning is defined as the method of cleaning or renovating clothing, rugs, furs, fabrics and textiles with an inflammable fluid. (Code 1958, § 21-9.)

Section 24.04.060 Same--Declared nuisances in certain locations

All dry cleaning places or establishments within the fire limits of the city using inflammable fluids are declared a nuisance and unlawful. (Code 1958, §§ 21-10.)

Section 24.04.070 Same--Inspection by fire chief; abatement of nuisance by fire chief

It shall be the duty of the chief of the fire department to enter and inspect all buildings or places where he believes dry cleaning is being done, and if he finds that the preceding section is being violated, it shall be his duty to immediately abate such nuisance by removing and destroying all such liquids and preparations used in such dry cleaning. (Code 1958, § 21-11.)

Article 24.08 Storage of Junk, Maintenance of Blighted Structures, etc.

Sections:

- 24.08.010** **Definitions**
- 24.08.020** **Certain practices declared nuisances**
- 24.08.030** **Liability of owners, occupants, lessees, etc., generally**
- 24.08.040** **Removal of junked automobile from private property by general inspector or police**

Section 24.08.010 **Definitions**

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them by this section:

Abandoned Vehicle. Without limitation, any vehicle which has remained on private property for a period of forty-eight continuous hours or more without consent of the owner or occupant of the property or for a period of forty-eight continuous hours or more after the consent of the owner or occupant has been revoked.

Blighted Structure. Without limitation, any dwelling, garage or outbuilding; 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 intended.

Building Materials. 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.

Junk. Without limitation, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators or other appliances, remnants of wood, metal or any other cast off material of any kind whether or not such material could be put to any reasonable use.

Junk Automobiles. Without limitation, any motor vehicle which is not licensed or use upon the highways of the state for a period in excess of sixty days and also includes, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of sixty 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.

Trash and Rubbish. Any and all forms of debris not herein otherwise classified. (Ord. No. 525.)

Section 24.08.020 **Certain practices declared nuisances**

It is hereby determined that the following conditions tend to result in blighted and deteriorated neighborhoods, increase in criminal activity, spread of vermin and disease and are contrary to the public peace, health, safety, and general welfare of the community:

- (a) Storing or permitting the storage or accumulation of trash or rubbish.
- (b) Storing or permitting the storage of or accumulation of junk, junk automobiles or abandoned vehicles on any private property within the city, except within a completely enclosed building and in compliance with the provisions of this Code and other city ordinances; provided, that this shall not be construed to preclude

the storage or accumulation of junk, junk automobiles or abandoned vehicles upon the business premises of a duly licensed junk dealer, junk buyer in used auto parts, or dealer in second hand goods or junk gatherer so long as such premises are operated and maintained in compliance with the provisions of this Code and other city ordinances.

- (c) Dismantling, cutting up, removing parts from or otherwise disassembling any automobile, whether it is a junk automobile, abandoned vehicle or any appliance or machinery, except in 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.
- (d) Keeping or maintaining any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store or warehouse, unless such structure is kept securely locked, the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by unauthorized persons or such structure is in the course of construction in accordance with a valid building permit issued by the city and such construction is completed within a reasonable time.
- (e) Storing or permitting the storage or accumulation of building materials on any private property, except in a completely enclosed building or where such building materials are part of the stock in trade of a business located on such property or 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.

Such conditions are hereby declared to be nuisances. (Ord. No. 525; Ord. No. 585.)

Section 24.08.030 Liability of owners, occupants, lessees, etc., generally

All persons maintaining or permitting the maintenance of any condition declared to be a nuisance by section 24.08.020, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals. (Ord. No. 525.)

Section 24.08.040 Removal of junked automobile from private property by general inspector or police

The general inspector or the police department may remove or cause to be removed any junk automobile or parts of either from any unenclosed private property after having notified in writing the owner or occupant of such property of its intention to do so at least forty-eight hours prior to such removal. Such notice shall be served personally upon the owner or occupant of the property if occupied or may be posted in a conspicuous place upon vacant or unoccupied property. Such junk automobiles or abandoned vehicles or parts of either shall be removed to the automobile pound and disposed of in accordance with law. Such removal by the police department or general inspector shall not excuse or relieve any person of the obligation imposed by this article to keep his property free from storage or accumulation of junk automobiles or abandoned vehicles, parts of junk automobiles or abandoned vehicles or parts of either nor from the penalties for violation thereof. (Ord. No. 525.)

Article 24.12 Noises

Sections:

- 24.12.02000 Division 24.12.02 Generally**
- 24.12.02010 Legislative findings**
- 24.12.02020 Unnecessary noise prohibited**
- 24.12.04000 Division 24.12.04 Noise Level Regulations**
- 24.12.04010 Definitions**
- 24.12.04020 Tests for unlawful noise**
- 24.12.04030 Noise levels--Zoning districts**
- 24.12.04040 Same--Motor vehicles**
- 24.12.04050 Same--Aircraft**
- 24.12.04060 Exemptions**
- 24.12.04070 Application for special permit**
- 24.12.04080 Penalty for violation of article**
- 24.12.04090 Additional remedy**

Section 24.12.02000 Division 24.12.02 Generally

Section 24.12.02010 Legislative findings

- (a) The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use, affect and are detrimental to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city.
- (b) The necessity, in the public interest, for the provisions and prohibitions contained in this article, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions of this article are in pursuance of and 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. (Ord. No. 717, § 1.)

Section 24.12.02020 Unnecessary noise prohibited

It shall be unlawful for any person to make 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. (Ord. No. 717, § 1.)

Section 24.12.04000 Division 24.12.04 Noise Level Regulations

Section 24.12.04010 Definitions

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"A" Band Level. Total sound level of all noise as measured with a sound level meter using the "A" weighing network. The unit of measurement is the dB(A).

Ambient Noise. All-encompassing noise associated with a given environment, being usually composite of sounds from many sources, near and far.

Bel. Common logarithmic value of any sound intensity as related to the standard threshold of audibility (minimum detectible sound or 10-12 watts per square meter).

Cycle. Complete sequence of value of a periodic quantity that occur during a period.

Decibel. One-tenth of a bel as measured on the "A" scale of a standard sound meter using procedures recommended by the American Standard Association.

Emergency Vehicles. Those vehicles such as ambulance, fire, police and other city vehicles operating in time of emergency.

Emergency Work. 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.

Frequency of a Function Periodic In Time. Reciprocal of the primitive period. The unit is the cycle per unit time and must be specified.

Sound-Level Meter. An instrument including a microphone, an amplifier, an output meter and frequency weighing networks for the measurement of noise and sound levels in a specified manner. (Ord. No. 717, § 1.)

Section 24.12.04020 Tests for unlawful noise

The standards which shall be considered in determining whether a violation of section 24.12.02.020 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) The proximity of the noise to residential sleeping facilities.
- (g) The nature and zoning of the area within which the noise emanates.
- (h) The density of inhabitation of the area within which the noise emanates.
- (i) The time of the 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. (Ord.

No. 717, § 1.)

Section 24.12.04030 Noise levels--Zoning districts

It shall be unlawful to project a sound or noise, excluding noise emanating from a motor vehicle, from one property into another or within the boundary of a use district, which exceeds the limiting noise criteria set forth in Table I 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 I 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 I. LIMITING NOISE LEVELS FOR ZONING DISTRICTS

	Zoning District		
	Residential (R1, R2, R3, R4, PUD)	Commercial (C1, C2, C3, C4)	Industrial (C-M, M-11 M-2, M-3)
Maximum number of decibels permitted from 7:00 a.m. until 11:00 p.m. daily	53	65	80
Maximum number of decibels permitted from 11:00 p.m. until 7:00 a.m. of the following day	50	60	75

(Ord. No. 717, §§ 1.)

Section 24.12.04040 Same--Motor 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 II, as follows:

TABLE II. LIMITING NOISE LEVELS FOR MOTOR VEHICLES

- (a) Trucks, buses, construction equipment, or any motor vehicle with a gross weight rating of ten thousand (10,000) pounds or more: Maximum allowable limit: 88 dB measured at 25 feet.
- (b) Passenger cars, pickups, vans, motorcycles, snowmobiles, or any motor vehicle with a gross weight rating less than ten thousand (10,000) pounds: Maximum allowable limit: 80 dB measured at 25 feet. (Ord. No. 717, § 1.)

Section 24.12.04050 Same--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 eighty-eight dB(A) within the city. (Ord. No. 717, § 1.)

Section 24.12.04060 Exemptions

The following uses and activities shall be exempt from the 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 an emergency.
- (c) Noises resulting from emergency work as defined in section 24.12.04.010.
- (d) Any construction or maintenance activities.
- (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 section 21.12.04.070.
- (f) Any aircraft operated in conformity with, or pursuant to federal law, federal air regulations and air traffic control instruction used pursuant to and within the duly adopted federal air regulations shall be exempt from the provisions of section 21.12.04.050 as well as other regulations of this division. 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 section 21.12.04.050 as well as the other regulations of this division. (Ord. No. 717, § 1.)

Section 24.12.04070 Application for special permit

Applications for a permit for relief from the noise level designated in this division 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 such 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 division; or
- (b) The activity, operation or noise source will be of temporary duration, and cannot be done in manner that would comply with other sections of this division; 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. (Ord. No. 717, § 1.)

Section 24.12.04080 Penalty for violation of article

The penalty for violation of any of the provisions of this article shall be in accordance with section 11.12.010 of the Dickinson City Code. (Ord. No. 717, § 1.)

Section 24.12.04090 Additional remedy

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions hereof and which cause discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. (Ord. No. 717, § 1.)

Article 24.16 Standing Water

Sections:

24.16.010 Standing Water

Section 24.16.010 Standing Water

- (a) **Standing Stagnant Water as Public Nuisance:** All stagnant water in which mosquitoes can multiply is hereby declared to be a public nuisance. All items containing stagnant water which can serve as a breeding ground for mosquitoes are hereby declared to be a public nuisance. This includes, but is not limited to, bottles, cans, buckets, clogged gutters or any other places containing stagnant water. The outdoor storage of tires for more than seven (7) consecutive days is declared a public nuisance. The foregoing declarations of public nuisances shall not apply to ditches, drainage ways, detention basins, lakes, streams and natural land formations where water may collect. It shall be unlawful for any property owner, lessee, tenant or other person otherwise in control of property to allow a public nuisance as set forth in this article to exist on any property owned, leased, used, occupied or in which such person otherwise has an interest to remain on such property.
- (b) **Nuisance Abatement:** In the event of a violation of this article, the City Administrator or his designee, shall notify, in writing, such owner, occupant, person in control, or agent to remove such public nuisance. In the event such owner, occupant, person in control, or agent cannot be located after reasonable inquiry, posting shall be sufficient notice. The notice shall state that unless such nuisance is so abated or removed by a specified date, the City will cause it to be abated or removed. Such notice shall also state that the failure of such owner, occupant, person in control, or agent to abate the nuisance as required by such notice shall be deemed an implied consent for the City to abate or remove such nuisance. Such implied consent shall be deemed to form a contract between such owner, occupant, person in control, or agent and the City. If such owner, occupant, person in control, or agent fails to abate any nuisance within the time limit specified in such notice, the City may proceed to abate such nuisance, keeping an account of the expense of the abatement as to each particular lot or tract, and such expense shall be charged and paid by such owner, occupant, person in control, or agent.
- (c) **Administrative Expense:** In addition to the charges and fees set forth in this article the City may charge an administrative fee to cover a portion of the administrative costs incurred for removal of the nuisance, which will be listed in the City's fee schedule. Where the City causes the removal of public nuisances from more than one lot in the same subdivision and said lots are owned by the same person(s), then the City may charge an administrative fee for the first such lot and an additional fee for each additional lot as listed in the City's fee schedule.
- (d) **Special Assessment of Fees:** If the costs of abating or removing the nuisance remains unpaid on September 15 of any year, the City at its option, may place a special assessment against the real property where the nuisance was abated or removed. (Ord. No. 1271 §1.)