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**CHAPTER 3  
PUBLIC PLACES AND PROPERTY**

**ARTICLE 1 – Construction and Repair**

3.0101 Supervision

All construction maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the Public Works Superintendent. He shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinance.

3.0102 Construction and Repair – Permits

It shall be unlawful to construct, reconstruct, alter, grade or repair any public street, sidewalk, driveway, curbs or gutters without having first secured a permit therefore, unless said work is performed by the City contractor. Applications for such permits shall be made to the City Auditor and shall state the location of the intended pavement or repair, the extent thereof and the person or firm who is to do the actual construction work. No such permits shall be issued except where the work will conform to the ordinances of the City.

3.0103 Specifications

All construction, maintenance and repair herein shall be made in conformity with specifications laid down or approved from time to time by the City Council.

3.0104 Duty of Owner to Maintain

The owner of any lot or parcel of land adjoining any street, lane, or alley shall construct, reconstruct, and maintain in good repair such sidewalks along the street, lane, or alley adjacent to his lot or parcel of land as have been constructed or as have been ordered constructed by ordinance. Such sidewalks shall be of the material and width and upon the place and grade specified in the ordinance.

Should any such owner fail so to maintain such sidewalks, the Public Works Superintendent shall direct the owner to make such repairs as may be necessary to restore such sidewalk to a safe condition. After a reasonable time if the owner fails to follow these directions the Public Works Superintendent shall report the facts to the City Council.

3.0105 Notice to construct, rebuild, or repair sidewalks

Except as otherwise provided in this chapter, if the City Council deems it necessary to construct, rebuild, or repair any sidewalk it shall notify each owner of record at the last address shown in the recorder or the county treasurer or occupant of any lot or parcel of land that would be benefited by the sidewalk to construct, rebuild, or repair the same at the owner's own expense and subject to the approval of Public Works Superintendent within the time designated in the notice.

The notice must be directed in the manner hereinbefore provided to the owner of record or occupant and must set forth what work is to be done, the character of the same as specified in the ordinance, and the time within which the owner is required to do the work. The work must be done to the satisfaction of the Public Works Superintendent. The notice may be general as to the owner of record or occupant but must be specific as to the description of the lot or parcel of ground to be benefited by the sidewalk that is to be built or repaired.

The Public Works Superintendent shall serve such notice by certified mail or delivering a copy thereof to the occupant or owner of record of each lot or parcel of occupied land described in the notice, or as to the occupant by leaving a copy thereof at the dwelling house upon such lot or parcel of land with some person over the age of fourteen years residing therein.

If any lot or parcel of land is not occupied and service by mail is deemed impractical, the Public Works Superintendent may serve the notice by posting a copy thereof in a conspicuous place therein or immediately in front thereof.

If such sidewalk is not repaired within the time fixed in such notice, the Public Works Superintendent as soon as practicable, shall repair the same and certify the cost thereof, with the person's return of service of the notice, to the city auditor, and the cost of such repairs will be paid by the City.

#### 3.0106 Power of City upon failure of property owner to comply with notice

If the sidewalk is not constructed, repaired, or rebuilt in the manner and within the time prescribed in the notice, the City Council shall order the work done by such person as it may have contracted with, under the supervision of the Public Works Superintendent, at the expense of the lots or parcels of land benefiting from the sidewalk.

The expense of constructing, repairing, or rebuilding the sidewalk shall include the expense of giving all notices required by the provisions of this chapter, of making assessments, and of any other nature incurred in doing such work.

#### 3.0107 Assessment of expense.

The expense of constructing, repairing, or rebuilding sidewalks must be assessed against the lots or parcels of land benefited by the sidewalk by the Public Works Superintendent, who shall return the assessment and file it in the office of the City Auditor. The City Auditor shall cause such assessment, together with a notice of the time when and place where the City Council will meet to consider the approval thereof, to be published in one issue of the official newspaper of the city at least ten days prior to the meeting of the City Council at which the approval of the assessment will be considered.

#### 3.0108 Application for Permit

An applicant for a permit hereunder shall file with the City Auditor an application as supplied by the City.

#### 3.0109 Standards for Issuance of Permit

The Public Works Superintendent shall issue a permit hereunder when it is determined:

1. That the work will be done according to the standard specifications of the City for public work of like character.
2. That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of ingress and egress to and from the property affected and adjacent properties.
3. That the health, welfare and safety of the public will not be reasonably impaired.

#### 3.0110 Sidewalks Built to Grade Specifications

All sidewalks shall be constructed in accordance with the elevations and grade therefore to be furnished by the Public Works Superintendent and shall be constructed under his direction and supervision. All sidewalks shall meet the following requirements:

All sidewalks shall be constructed of concrete.

All sidewalks in residential areas shall be constructed not less than five (5) feet in width and shall have a minimum slope one-fourth (1/4) inch per foot from the inside edge toward the street.

All sidewalks shall be of concrete and of at least four (4) inches in thickness.

Consideration should be given as to the probability of trees between the curb and the sidewalk utilizing Chapter 17 as a guide.

In the residential district the sidewalk shall not be constructed adjacent to the curb unless right-of-way and topographic features require it.

Notwithstanding any other provision herein all sidewalks shall be set out so that they are in conformity with existing sidewalks to which they may attach.

All sidewalks in commercial and/or industrial districts shall be constructed from the property line to the back of the curb and the width of sidewalk shall be governed by the width of street section; provided however, in areas where commercial development is not complete the entire sidewalk need not be constructed, a section six (6) feet in width adjacent to the curb shall be constructed thus leaving an area for structural foundations.

#### 3.0111 Materials and Manner of Construction

The kind and quality of material which, and the manner in which driveways, curb and gutter, relaying of block walks and paving repairs shall be constructed shall be determined by the Public Works Superintendent.

#### 3.0112 City Contractor

All sidewalks, driveways, curb and gutter and alley returns lying between the property line and abutting street hereafter constructed within the City must conform to this chapter, and the specifications filed with the Public Works Superintendent, and approved by the City Council must specify the details with respect thereto.

When any contract for the construction of sidewalks, driveways, curb and gutter, relaying of block walks and paving repairs is about to be entered into by the City in accordance with the provisions of the laws of this state, the contractor, to whom any such contract shall be awarded shall be required, before such contract is entered into, to give in addition to the contract bond required by the laws of the state of North Dakota, an additional bond in an amount to be determined by the City Council, running to the City, conditioned that said contractor shall maintain and keep in good repair, for a period of two (2) years from date of final acceptance all sidewalks, driveways, curb and gutter and paving repairs so constructed by such contractor under the terms of such contract, and that in case of default under the part of such contractor to so maintain and keep such improvements in good repair made by him for the said period of two (2) years, or in cases they shall within said time begin to crumble or disintegrate or become cracked or broken to such extent that, in the opinion of the Public Works Superintendent, the same is not a satisfactory compliance with the specifications for the construction thereof, then the Public Works Superintendent may direct that such sidewalks, driveways, curb and gutters or paving repairs be immediately repaired or re-laid in whole or in part as he shall deem best, and the contractor shall immediately cause the same to be repaired or failure so to repair or to relay the same, the City at any time within said two (2) year period or thereafter, may cause the same to be repaired or re-laid, and the cost thereof whether done by the City directly or through a contract, may be recovered against said contractor and the surety upon such bond.

### **ARTICLE 2 – Use and Care of Streets, Sidewalks and Public Places**

#### 3.0201 Obstructions – Penalty

It shall be unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specified by ordinance or by the Public Works Superintendent.

In the event it becomes necessary for any person, firm or corporation to temporarily discharge sump pump water across a sidewalk into the storm water collection system, they shall contact the Public Works Superintendent before beginning the discharge, who shall mark the discharge area or the discharge equipment, such as a hose or pipe, with appropriate warning signs, flags, cones or similar devices, to alert pedestrians traveling on the sidewalk of the potential temporary hazard existing on that section of the sidewalk.

Any person violating the provisions of this section shall be guilty of an infraction and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1000.00).

### 3.0202 Destruction of City Property – Prohibited – Penalty

It shall be unlawful for any firm, person or corporation to willfully and without just cause or excuse, to injure, deface or destroy any property owned by the City or held by the City for public use. Any person violating the provisions of this section shall be guilty of an offense and be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) or be imprisoned for not to exceed thirty (3) days or by both such fine and imprisonment.

### 3.0203 Encroachments

It shall be unlawful to erect or maintain any building or structure that encroaches upon any public street or property.

### 3.0204 Openings

It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the City Council. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing to be approved by the Public Works Superintendent.

### 3.0205 Wires

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without having first secured permission from the City Council.

Any person or company which maintains poles and wires in the streets, alleys or other public places, shall in the absence of provisions in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the Public Works Superintendent, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

### 3.0206 Littering - Prohibited

No person, firm or corporation shall throw or deposit or cause to be thrown or deposited any garbage, glass, bottles, boxes or rubbish of any kind upon any street or alley in the City.

### 3.0207 Open Burning Prohibited

Refer to CHAPTER FOUR, FIRE PROTECTION AND PREVENTION, Article 3 – Fires in Public Places

### 3.0208 Distributing Hand Bills, Etc.

The scattering, throwing, or placing of bills, posters, advertising material, handbills, and other similar items on private premises, sidewalks, streets, or other public places in the City must be done in such a manner so as to prevent the items from being blown about these premises, sidewalks, streets or other public places. Any person or entity violating the provisions of this section shall be guilty of an infraction.

### 3.0209 Heavy Vehicles

No person, firm or corporation shall move, or cause to be moved over the paved streets, sidewalks, crosswalks, culverts, any engine, tractor, wagon, truck or other vehicle, object or thing which will tend to injure the paving, sidewalks, crosswalks, culverts, over which the same are transported, or which exceeds in weight 16,000 pounds per axle and exceeds 750 pounds per inch of tire widths, or any vehicle to the wheels of which are attached spurs, bars, angle irons or cleats which will tend to mar or deface the paving, sidewalks, crosswalks, culverts, except under the direction and permission of the City Council and, in addition thereto, shall pay or cause to be paid to said City, upon demand, any and all damages.

### 3.0210 Removal of Snow and Ice from Sidewalk

It shall be, and hereby is declared to be, the duty of the owner or occupant of each lot in the City to remove from the sidewalk in front of or along the same, any ice or snow which forms, accumulates or obstructs such sidewalk, within twenty-four (24) hours after the ice forms or the snow ceases to fall thereon. Where the ice accumulated is of such character as to make the removal thereof practically impossible, the sprinkling of ashes or sand thereon within the time specified for removal in such manner as to make such sidewalk safe for the travel of pedestrians thereon, shall be deemed a compliance with the provisions of this article.

### 3.0211 Removal of Snow and Ice by City from Sidewalk

In case the owner of any lot in the city refuses or neglects to remove such ice from such sidewalk in front or along a lot therein, the ice or snow therefrom within the same time above stated or refuses to sprinkle ashes or sand on the same within the time specified for removal in such a manner as to make such sidewalk safe for travel of pedestrians thereon, the same may be removed by or under the direction of the Public Works Superintendent, or ashes or sand sprinkled thereon and the necessary expense thereof shall be charged against the abutting property by special assessment in the manner prescribed by law.

### 3.0212 Assessments by Public Works Superintendent When Work is done by City

Whenever the Public Works Superintendent shall, pursuant to Section 3.0211 of this Article, remove or cause to be removed any snow or ice from any sidewalk or sidewalks along or in front of any building, grounds or premises, he shall assess the cost of the same against said property, and on or before the first day of May in each year, make and file in the office of the City Auditor a list of the property chargeable with such expense, the actual cost and expense of such removal and a description of the lot, lots or parcels of land along or in front of which is the sidewalk or sidewalks from which snow or ice has been removed. (Source: NDCC Section 40-29-18)

### 3.0213 Snow and Ice Removal Assessments, Publication by Auditor, Hearing by City Council

The City Auditor shall give notice by publication in the official newspaper of the hearing and confirmation of such report and assessment at the regular June meeting of the City Council, notifying all persons objecting thereto to appear and present their objections. The notice shall be published once each week for two (2) consecutive weeks, the last publication to be not less than eight (8) days before the time fixed for the hearing. At the June meeting of the City Council or at such later meeting as the hearing and confirmation of such assessment may be adjourned to, the City Council shall consider said assessment and shall hear any objections thereto or to any part thereof, and after revising and correcting the same, if necessary, it shall approve and confirm the list. The City Auditor shall attach to such list his certificate that the same is correct as confirmed by the City Council and shall file said assessment list in his office. The assessment shall be certified to the County Auditor by the City Auditor in the manner provided in Section 40-24-11 of the North Dakota Century Code. (Source: NDCC Section 40-29-19, 20)

### 3.0214 Street Cleaning – Snow Removal

Whenever, in the judgment of the Public Works Superintendent of the city, it shall be necessary that streets, alleys, or public ways in the city shall be cleared of snow or ice or be cleaned by the use of street sweepers or other methods of cleaning such streets, or for marking for traffic purposes, the ordinances of the City regulating the parking of automobiles, trucks and other motor vehicles shall be suspended and it shall be unlawful for any automobile, truck or other motor vehicle to be parked or left standing between the hours hereinafter mentioned and during the period of time during which the said parking ordinances are suspended.

### 3.0215 Notice – Snow Removal or Street Cleaning

Whenever it becomes necessary, and always after a snowfall of 2” or more, the Public Works Superintendent will remove snow or ice, or sweep and clean the streets. An emergency snow removal route will be posted in the City Hall.



Normally all streets and alleys will be cleaned within 24 hours of a snowfall, therefore all vehicles need to be off the streets to allow for proper snow removal. The city will have no liability for mailboxes, newspapers receptacles, or other objects that are placed close to the curb and damaged during snow removal.

It shall be unlawful for snow removal from private property or public rights of way to be deposited on the paved or traveled portion of any public street.

#### 3.0216 Impounding Vehicles and Equipment

Whenever any parked automobile, truck, machinery, vehicle or equipment shall be found in any place prohibited by these restrictions, and during the hours as provided herein, the same shall be impounded by the city at a place to be provided and it shall be unlawful for any person, firm, or corporation to remove or attempt to remove any truck, automobile, machinery, vehicle or equipment from the place where impounded without first paying the cost of such impounding.

#### 3.0217 Blocking Streets

No driver of any vehicle shall stop the same on any street, avenue, lane, or alley in such a manner as to hinder or prevent other vehicles or persons from passing at all times, unless in case of absolute necessity.

#### 3.0218 Excavations - Permit

It shall be unlawful for any person, firm or corporation except public utilities which have received a franchise from the City, to tunnel under or to make any excavation in any street, alley, or other public place in the city without having obtained a permit, or without complying with the provisions of this article or in violation of or variance from the terms of any such permit.

#### 3.0219 Guarding of Excavations and Openings

It shall be unlawful for any person within the City limits to leave or keep open, uncovered or unguarded any cellar door, pit, grating, vault or other subterranean passage opening from, into or upon any street, alley or sidewalk, or upon any private property if not suitably guarded.

#### 3.0220 Applications for Excavation Permits

Application for excavation permits shall be made to the Auditor, and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefore, and the person, firm or corporation doing the actual excavating work and the name of the person, firm, or corporation for whom or which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

#### 3.0221 Fees for Excavation Permits

No such permit shall be issued unless and until the applicant therefore has deposited with the Auditor a cash deposit or bond in the sum set forth in the Fees and Rates Resolution which may be revised from time to time, if no pavement is involved, and if the excavation is in a paved area, to insure the proper restoration of the ground and laying of pavement if any. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement and of making refill if this is done by the city or at its expense, and the balance shall be returned to the applicant and the surface or pavement is restored. The City Council may, in its discretion, waive the required deposit.

#### 3.0222 Bond – Excavations

No excavation permit shall be issued unless and until the applicant therefore has filed with the Auditor a bond in the sum of ten thousand dollars (\$10,000.00), conditioned to indemnify the City for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavations. Such bond shall have as surety a corporation licensed to do business in the state as a surety company.

### 3.0223 Manner of Making Excavations - Notice

It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground, and in excavations, the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels, and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the Public Works Superintendent, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed. Notice shall be given as required by Chapter 49-23 of the North Dakota Century Code.

No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

### 3.0224 Restoration of Excavations

Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the City shall restore the surface to its original condition if there is no pavement there, Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground.

Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant, in compliance with the ordinances of the City and under the supervision of the Public Works Superintendent.

### 3.0225 Supervision of Excavation Work

The Public Works Superintendent shall from time to time inspect or cause to be inspected, all excavations and tunnels being made in or under any public street, alley or other public place in the City to see to the enforcement of the provisions of this article. Notice shall be given to him at least ten (10) hours before the work of refilling any such tunnel of excavation commences.

## **ARTICLE 3 - Unclaimed and Abandoned Property**

### 3.0301 Unclaimed and Abandoned Property - Defined

Personal property left upon the streets, alleys or other public ways in the City shall be deemed to be unclaimed or abandoned within the meaning of this article when the same is permitted to remain in any one place upon said streets, alleys or other public ways for a period of ten (10) days or more.

### 3.0302 Seizure of Unclaimed or Abandoned Property

Whenever any unclaimed or abandoned personal property is found upon the streets, alleys or other public ways of the City, the same shall be seized and possession thereof taken by any police officer, Public Works Superintendent or other officer of the City.

### 3.0303 Holding of Personal Property – Notice of Sale

Abandoned personal property shall be held by the City for a period of not less than Sixty (60) days, after its seizure and after the expiration of said sixty (60) days the Chief of Police shall cause notice to be published in the official newspaper, specifying and stating the description of the property so seized and held, the location of the place where the same was seized or taken by said city, and a further notice that said property will be sold at public auction, to the highest bidder for cash, not less than ten (10) days from and after the date of the publication of such notice and the hour, date and place where said sale will be held. If prior approval is obtained from the City Council such unclaimed or abandoned property may be sold at a

community auction provided that the Chief of Police or a police officer shall be responsible for the notice and reporting requirements of this article.

#### 3.0304 Report of Abandoned Property Sale

At the time specified in said notice the property shall be sold by the Chief of Police or by any police officer designated by him, at public auction, to the highest bidder for cash and within three (3) days after the date of sale, the officer making the sale shall make a report thereof to the City Council. The report shall contain the description of the property sold, the time and place of the sale, the name or names of the purchaser or purchasers and the amount received therefore. The report shall be made under oath and subscribed by the officer making such sale and shall be filed with the City Auditor within three (3) days after the date of such sale. The officer, upon filing the report shall pay the proceeds to the City Auditor.

#### 3.0305 Bill of Sale – Abandoned Property

Upon receipt of the report as specified in Section 3.0304 hereof, the City Auditor shall prepare a bill of sale of the property sold, conveying the same to such purchaser and the same shall be executed by the Mayor and attested by the City Auditor and delivered to the purchaser.

#### 3.0306 Proceeds of Sale – Abandoned Property

The City Auditor shall retain such money as is received from such sales in the general fund of the City.

#### 3.0307 Redemption of Personal Property

Any person owning such personal property seized, may at any time prior to the sale thereof, upon furnishing satisfactory proof of ownership thereof to the Chief of Police, reclaim such property upon paying the expenses incurred by the City for the seizure, storage or advertising the sale

#### 3.0308 Annual Report – Unclaimed and Abandoned Property

The Chief of Police prior to June 1 of each year shall submit to the City Auditor a written list of all unclaimed and abandoned property held by the City which has not been sold pursuant to the provisions of this Article. The City Auditor shall bring such list to the attention of the City Council at the next regular meeting.

### **ARTICLE 4 – House Numbering**

#### 3.0401 House Numbering Required

The City Auditors Office in the City shall have filed a map of the City upon which will be inscribed the names and numbers of the streets and avenues within the City, and shall be certified as the official city map. All street numbers and names shall conform to said map. The Planning Commission of the City shall prepare the map and the map shall be approved by resolution of the City Council. Any amendments or requested changes to said streets, name or number, shall be commenced by a request for said change to be made to the Planning Commission and thereafter approval by resolution of the City Council as herein above provided.

No streets or avenues of the City of Cando shall be named or numbered other than any manner provided by this ordinance

#### 3.0402 Numbers on Houses

It shall be the duty of the owner and occupants of every house in the City to have placed thereon, in a place visible from the street, figures at least two and one-half (2 ½) inches high, showing the number of the house.

**ARTICLE 5 – Penalty**

Any person who is convicted of violating or failing to comply with any of the provisions of this Chapter may be punished by a fine of not more than \$1000.00 or by imprisonment not to exceed 30 days or both.

It shall be the Municipal Judge's decision to use the sentencing defined in Article 5 of Chapter 13 of the Revised Ordinances of the City of Cando.