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**CHAPTER 12**  
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**ARTICLE 1 - Noxious Weeds**

12.0101 Definition

Whenever used in this ordinance, the term "noxious weeds" shall mean and include all weeds of the kind known as Canada Thistle, sow thistle, quack grass, leafy spurge (Euphorbia esula or Euphorbia virgata) field bindweed, Russian knapweed (Centaurea picris), hoary cress (Lapidium draba, Lapidium repens, and Hymenophyssa pubescens), dodder or any similar unwanted vegetation over eight inches in height, or any tree, weeds or other vegetation which may grow near or on the property line or the property of any person in such a manner as to interfere with any public highway, alley or other right-of-way.

12.0102 Weeds Prohibited

No owner of any lot, place or area within the City or the agent of such owner shall permit on such lot, place or area and the one-half of any road or street lying next to the lands or boulevards abutting there noxious weeds or other trees or vegetation interfering with the right-of-way of any public highway, alley, street or other deleterious, unhealthful growths.

12.0103 Notice to Destroy

The City Health Officer or Chief of Police is hereby authorized and empowered to notify in writing the owner of any such lot, place or area within the City or the agent of such owner, to cut, destroy, and/or remove any such noxious weeds, vegetation or trees lying or located on such owner's property or upon the one of any road or street lying next to the lands or boulevards abutting thereon. Such notice shall be by registered or certified mail addressed to said owner or agent of said owner at his last known address and shall give such owner or his agent a minimum of five days to cut or destroy said noxious weeds.

12.0104 Action Upon Non-Compliance

Upon the failure, neglect, or refusal of any owner or agent so notified to cut, destroy and/or remove any noxious weeds, vegetation or trees growing, lying or located upon the owner's property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon after receipt of the written notice provided for in 12.0103 above or within five days after the date of such notice in the event the same is returned to the Post Office Department because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the health officer or Chief of Police is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds, vegetation or trees, or to order their removal by the city.

12.0105 Cost Assessed to Property

When the City has effected the removal of such noxious weeds, tree or vegetation, or has paid for their removal, the actual cost thereof, plus any administrative cost, if not paid by said owner prior thereto, shall be charged and assessed against the property upon which the noxious weeds, trees or vegetation were cut or destroyed. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists, and shall be approved by the City Council and shall bear interest at nine percent. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law.

## ARTICLE 2 - SANITARY NUISANCES

### 12.0201 Residences – When Sewer and Water Required

It shall be unlawful for any person to use or occupy or permit to be used or occupied for residence purposes, any premises or building within City where the lot upon which said building is constructed is located 400 feet or less from any water main or sanitary sewer within the City without first making or causing to be made proper connections with said Sewer and Water facilities and mains and, in determining the distance for the purpose of determining when any building or premises is included herein the measurement shall be taken between the nearest point on said lot and the nearest point on any water main or sewer line.

The term "Proper Connections" when used in this section shall be constructed to mean connections with such water main and sanitary sewers which are equipped and furnished with proper valves and fittings so as to enable such water connections to be used at all times and sanitary toilets and drains and such equipment shall at all times be kept in repair and in a manner so as to make them available for household use and in condition to be used at all seasons of the year.

### 12.0202 Outhouses – Cesspools – A Nuisance

The use construction, maintenance, building or erection of any outhouse, privy, vault or cesspool within this City is hereby declared to be a nuisance and a menace to public health, when in violation of Section 12.0201.

### 12.0203 Outhouses – Cesspools, Exceptions

Private sewage system and private water supplies may be constructed to serve new buildings to be built in areas not included in Section 12.0201, providing such lot area complies with the requirements of any zoning requirements and chapter 7 of these ordinances.

Private sewage systems and private water systems may be installed in existing buildings in areas not included within Section 12.0201.

Each private sewage system or private water supply hereafter altered or constructed shall conform to the State Health Department Standards and chapter 7 of these ordinances.

### 12.0204 Outhouses – Cesspools, Offensive Odors

It shall be unlawful; for the owner or occupant of any lot or piece of ground within this City to suffer or permit any private sewer system to emit any offensive odors or to become dangerous or injurious to public health or offensive to sense of smell of the people of the City, and any private sewer system emitting such odor is hereby declared to be a nuisance and menace to public health of the City.

### 12.0205 Outhouses – Cesspools, Cleaning of

In the cleaning of private septic tanks and sewage systems the contents thereof shall be removed in containers fitted so as to prevent the escape of odors or materials therefrom and disposed in a manner approved by the City Health Officer and chapter 7 of these ordinances.

The pumping of a private sewage system on the surface of the ground or hauling contents thereof in such a manner as to allow the material to spill on the ground, street or public ways is hereby declared to be a public nuisance.

### 12.0206 Dead Animals

Any person who owned or had possession of or control of a dead animal prior to its death shall remove or cause the same to be removed within 5 hours from the time the animal dies and have the same buried or disposed of in some other sanitary way approved by the City Health Officer. Any dead animal remaining in any street, alley or public place in this City, or on any private premises within this City, for more than 5

hours after the animal shall have died, is hereby declared to be a nuisance; and any person permitting any dead animal in the street, alley or public place of the City or allowing any animal which he owned or which was in his possession or under his control prior to its death, to remain in any street, alley or public place, or on any private premises within the City for more than 5 hours after its death shall be guilty of a violation of this article.

12.0207 Water Pools- Putrid Substances

It shall be unlawful for the owner or occupant of any parcel of ground in this City to suffer or permit water or putrid substance whether animal or vegetable to accumulate or stand so as to cause an offensive odor to be emitted therefrom or to become injurious or dangerous to the health of the neighborhood, and any pool of water and any putrid substance permitted to become offensive or injurious to the public health is hereby declared to be a nuisance.

12.0208 Dirt, Filth, Etc., in Streets and Property

It shall be unlawful for any person, firm or corporation to throw, place, deposit, leave or cause to be thrown, placed, deposited or left in any of the public streets, highways, alleys, parks or thoroughfares, or on any private premises in this City any dirt, filth, sewage, sweepings, rags, dung, garbage, compost, wastepaper, excelsior, straw, hay, leaves, brush, weeds, dry grass, shavings, vegetables, slops or litter of any kind, and any place or property having left or deposited thereof any of the things or substances aforesaid is hereby declared to be a nuisance.

12.0209 Stables, Barns, Sheds

It shall be the duty of all persons having stables, barns, or sheds, whether as owners or tenants or as agents having control thereof, to remove or cause to be removed therefrom all manure and refuse of every kind at least once each week between the 15th day of March and the 15th day of December of each and every year.

12.0210 Spitting

No person shall spit upon any sidewalk or upon the stairs, hallway, floor, carpet, furniture or walls of any public or office buildings in this City.

**ARTICLE 3 - SMOKE - GASES**

12.0301 Smoke, Dust, Ashes, Cinders, Gases – A Nuisance

The emission of dense smoke, ashes, dust, soot, cinders or noxious gases from any machine, contrivance, or from any smoke stack or chimney of any building or premises in such quantities as to cause injury or detriment, to any person or persons, or to the public, or to endanger the comfort, health or safety of any person or persons, or in such manner as to cause or tend to cause damage or injury to property, is hereby declared to be a nuisance.

12.0302 Smoke, Dust, Ashes, Cinders, Gases, Prohibited

No person, persons, association or corporation shall cause, permit, or allow the escape from any smoke stack or chimney into the open air of such quantities of dense smoke, ash, dust, soot, cinders, acid or other fumes, dirt, or other material, or noxious gases, in such place or manner as to cause injury, detriment or nuisance to any person or persons, or to the public, or to endanger the comfort, health, or safety of any such person or persons, or the public or in such manner as to cause or have a natural tendency to cause injury or damage to business or property.

## **ARTICLE 4 - RADIO INTERFERENCE AND NOISE CONTROL**

### **12.0401 Radio Interference Prohibited**

It shall be unlawful for any person knowingly to maintain, use, operate or cause to be operated within this City, any machine, device, appliance, equipment or apparatus of any kind whatsoever, the operation of which shall cause reasonably preventable electrical interference with radio reception within said municipal limits, and the maintenance, use or operation within said city of any machine, device, appliance, equipment or apparatus of any kind so as to interfere with radio reception in violation hereof, is hereby declared a common nuisance.

### **12.0402 Loud, Disturbing, Unnecessary Noises Prohibited**

The making, creating, or maintenance of loud, unnatural or unusual and disturbing noises are a detriment to public health, comfort, convenience, safety and welfare are hereby declared to be unlawful and a public nuisance. The following acts, among others are declared to be prohibited noises in violation of this section, but such enumeration is not exclusive:

1. The sounding of horns or signaling devices on any motor vehicle, motorcycle on any street or public place except as a danger warning or their sounding for an unnecessary and unreasonable period of time.
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 a 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 operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facia evidence of a violation of this section.
3. Loudspeakers, amplifiers for advertising. The use, operating, or permitting to be played, used or operation of 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 11 p.m. and 7 a.m. 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, Courts, Churches, Hospital. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

## **ARTICLE 5 - AUTOMOBILES - PERSONAL PROPERTY**

### **12.0501 Automobiles, Personal Property – When a Nuisance**

Unsheltered storage of old, used, stripped, junked and other automobiles not in good, safe operating condition, and of any other vehicles, machinery implements and/or equipment and personal property of any kind which is no longer safely usable for the purposes with which it was manufactured for a period of thirty days or more (except in a licensed junk yard) within the city, and any motor vehicle, animal and article or personal property which constitutes an obstruction to, hazard or detriment to public traffic, snow removal operations, public safety and public health and morals or which may be abandoned or unclaimed within this

City is hereby declared to be a nuisance and dangerous to public safety and shall be abated in the manner prescribed in this article.

#### 12.0502 Abatement Required by Owners

The owner, owners, tenants, lessees and/or occupants of any lot within this city upon such storage is made, and also the owner, owners, and/or lessees of said property involved in such storage (all of whom are hereinafter referred to collectively as "owners"), shall jointly and severally abate said nuisance by the prompt removal of said personal property into completely enclosed buildings authorized to be used for storage purposes, if within this city, or remove it to a location outside of the city limits.

#### 12.0503 Abatement Required, Penalty for Failure

If said owners allow said nuisance to exist or fail to abate said nuisance they, and each of them, upon conviction thereof shall be fined not less than fifty (\$50.00) dollars nor more than one thousand (\$1,000.00) dollars for each offense and a separate offense shall be deemed committed on each day during or on which such nuisance is permitted to exist.

#### 12.0504 Removal and Impoundment by City

The Police Department may remove or cause to be removed to the public works department, or any other place within the City, selected for the purpose any personal property described in 12.0501 and may impound and retain the same until the expense of removal, storage and impounding is paid, together with the amount of any fine, cost, bail or other claims of the City against the owner, or any other person lawfully entitled to the possession thereof.

#### 12.0505 Removal and Impoundment, When Sold

If not reclaimed and redeemed by the true owner or the person lawfully entitled to the possession thereof within a period of thirty (30) days after impounding, any article or personal property described in 12.0501 may be sold and disposed of by the Police Department in the manner hereinafter provided.

Notice that such property will be sold shall be published once at least six (6) days prior to the sale, in Official newspaper of 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. Such sale shall be held between the hours of 9:00 o'clock in the morning and 5:00 o'clock in the afternoon of the day specified in the notice. Such sale shall be held at 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 where there are no bidders or when the amount offered is grossly inadequate, or for other reasonable cause. The City may become the purchaser of any or all property at such sale. The Chief of Police shall give the purchaser at such sale a certificate of purchase of such property.

#### 12.0506 Removal and Impoundment Proceeds

Within thirty (30) 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 therefore, the amount of costs and expenses, and disposition made by him of the proceeds of the sale. The proceeds arising from such sale shall be delivered over to the City Auditor and credited to the General Fund.

### **Article 6 – 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.