

CHAPTER FIFTEEN – PROPERTY NUISANCES

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CHAPTER FIFTEEN
PROPERTY NUISANCES

ARTICLE 1 – Property Nuisances

The provisions of Chapter 23.1-15 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this Article.

15.0101 Definitions

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

1. “Abandoned motor vehicle” - means any motor vehicle, as defined in Section 39-01-01 of the North Dakota Century Code, that has remained for a period of forty-eight (48) hours or more on public property illegally or lacking vital component parts, or has remained for a period of forty-eight (48) hours or more on private property without the consent of the owner or occupant of such property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual functions unless it is kept in an enclosed garage or storage building. It also means a motor vehicle voluntarily surrendered by its owner to a duly licensed scrap iron processor (see Section 15.0109). An antique automobile as defined in Section 39-04-10.4 of the North Dakota Century Code, and other motor vehicles to include parts cars and special interest vehicles, may not be considered an abandoned motor vehicle within the meaning of this Article.
2. “Collector” means the owner of one or more special interest vehicles that collects, purchase, acquires, trades, or disposes of special interest vehicles or parts of special interest vehicles for the person’s own use in order to restore, preserve, and maintain a special interest vehicle or antique automobile.
3. “Commercial Towing Service” means a registered business in North Dakota that tows motor vehicles.
4. “Department” - means the city police department, the city street department, a state-licensed peace officer, or the state or county health department.
5. "Emergency towing" means the towing of a vehicle due to a motor vehicle accident, mechanical breakdown on public roadway, or other emergency-related incident necessitating vehicle removal for public safety with or without the owner's consent.
6. "Parts car" means a motor vehicle generally in non-operable condition which is owned by the collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle.

7. "Special interest vehicle" - means a motor vehicle, previously defined, which is at least twenty (20) years old and which has not been altered or modified from the original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
8. "Unit of government" includes a state department or agency, a county, city, township, or other political subdivision.
9. "Vital component parts" - means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels.

15.0102 Penalty for Abandoning a Motor Vehicle

Any person that abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a Class A misdemeanor.

15.0103 Custody of Abandoned Vehicle

Units of government may take into custody and impound an abandoned motor vehicle. If requested by an owner, lessee, tenant, or occupant of private property, a commercial towing service may remove and take into custody an abandoned motor vehicle located on the private property.

15.0104 Conditions Under Which an Abandoned Vehicle May Be Sold Immediately

When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in North Dakota or any other state or foreign country, it is immediately eligible for disposition and must be disposed of to a scrap iron processor licensed under Section 23.1-15-09 of the North Dakota Century Code, and is not subject to the notification, reclamation, or title provisions of this chapter. Any license plate displayed on an abandoned vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle.

15.0105 Notice to Owner and Law Enforcement of Abandoned Vehicle

1. When an abandoned motor vehicle does not fall within the provisions of Section 23.1-15-04 of the North Dakota Century Code, the unit of government or commercial towing service taking it into custody shall give notice of the taking within ten days. The notice must set forth the date and place of the taking, the year, make, model, and serial number of the abandoned motor vehicle, and the place where the vehicle is being held, must inform the owner and any lienholders or secured parties of their right to reclaim the vehicle under Section 23.1-15-06 of the North Dakota Century Code, and must state that failure of the owner or lienholders or secured parties to exercise their right to reclaim the vehicle is deemed a waiver

by them of all right, title, and interest in the vehicle and a consent to the disposal of the vehicle pursuant to Section 23.1-15-07 of the North Dakota Century Code.

2. The notice must be sent by certified mail, return receipt requested, to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders or secured parties of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice must be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned. Published notices may be grouped together for convenience and economy.
3. Subject to Section 23.1-15-04 of the North Dakota Century Code, a commercial towing service that takes an abandoned motor vehicle into custody shall provide notice to the law enforcement agency having jurisdiction in the location from which the motor vehicle was towed within twelve hours after completing the tow.
4. Notice under subsection 3 must include:
 - a. The license plate number and state of registration;
 - b. The location from which the motor vehicle was towed;
 - c. The location to which the motor vehicle was towed;
 - d. The name, address, and telephone number of the commercial towing service that towed and is storing the motor vehicle; and
 - e. A description of the motor vehicle, including make, model, year, and color.
5. A commercial towing service that violates subsection 3 may not collect a storage fee under Section 23.1-15-06 of the North Dakota Century Code and shall return the motor vehicle to the registered owner at no cost to the owner.

15.0106 Right of Owner to Reclaim Abandoned Vehicle

1. The owner, secured parties, or a lienholder of an abandoned motor vehicle has a right to reclaim such vehicle from the unit of government taking the motor vehicle into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within thirty days after the date of the notice required by section 23.1-15-05 of the North Dakota Century Code.
2. The owner, secured parties, or a lienholder of an abandoned motor vehicle, within thirty days after receipt of the notice required by section 23.1-15-05 of the North Dakota Century Code, has a right to reclaim the vehicle from a commercial towing service taking the motor vehicle into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody.

3. Storage charges under subsection 2 may not exceed fifty dollars per day for an abandoned passenger vehicle, pickup, van, or truck that does not exceed twenty thousand registered gross weight pounds [9071.85 kilograms].
4. Nothing in this chapter may be construed to impair any lien of a garage keeper under the laws of this state or the right of a lienholder or secured parties to foreclose. For the purposes of this section, "garage keeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair, or maintenance of motor vehicles.
5. This section also applies to emergency towing.

15.0107 Disposal of Vehicle - Disposition of Proceeds

1. An abandoned motor vehicle not more than seven model years of age taken into custody by a unit of government and not reclaimed under section 23.1-15-06 of the North Dakota Century Code must be sold to the highest bidder at public auction or sale, following reasonable published notice. The purchaser must be given a receipt in a form prescribed by the department which is sufficient title to dispose of the vehicle. The receipt also entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The license plates displayed on an abandoned vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle.
2. If a commercial towing service takes custody of an abandoned motor vehicle and the vehicle is not reclaimed under section 23.1-15-06 of the North Dakota Century Code, the commercial towing service may obtain a release from the department of transportation which is sufficient title to dispose of the vehicle. The release entitles the commercial towing service to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The license plates displayed on the abandoned vehicle must be removed and destroyed upon receipt of the new title.
3. From the proceeds of the sale of an abandoned motor vehicle, the unit of government or the commercial towing service may reimburse itself for the cost of towing, preserving, and storing the vehicle, and for all notice and publication costs incurred under this chapter. Any remainder from the proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or secured parties for ninety days and then must be delivered to the administrator of the state abandoned property office in accordance with chapter 47-30.1 of the North Dakota Century Code.

15.0108 Disposal of Vehicles Not Sold

When no bid has been received for an abandoned motor vehicle, the unit of government may dispose of it pursuant to contract under section 23.1-15-09 of the North Dakota Century Code.

15.0109 Contracts for Disposal - Issuance of Licenses by Department of Environmental Quality - Reimbursement of Units of Government for Costs

1. A unit of government may contract with any qualified licensed scrap iron processor for collection, storage, incineration, volume reduction, transportation, or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal. The contract may authorize the contracting scrap iron processor to pay to the owner of any abandoned motor vehicle an incentive payment for vehicle if it is voluntarily surrendered and delivered to the scrap iron processor. For purposes of this section, an owner of an abandoned motor vehicle includes only a person that has owned and operated the vehicle for the person's personal or business use.
2. The department may issue a license to any qualified scrap iron processor desiring to participate in a contract under this section that meets the requirements for solid waste disposers established by the department.
3. When a unit of government enters a contract with a scrap iron processor duly licensed by the department, the department may review the contract to determine whether it conforms to the department's plan for solid waste disposal. A contract that does conform may be approved by the department. When a contract has been approved, the department may reimburse the unit of government for the costs incurred under the contract, including incentive payments authorized and made under the contract, subject to the limitations of legislative appropriations.
4. The department may demand that a unit of government contract for the disposal of abandoned motor vehicles and other scrap metal under the department's plan for solid waste disposal. When the unit of government fails to contract within one hundred eighty days of the demand, the department, on behalf of the unit of government, may contract with any scrap iron processor duly licensed by the department for such disposal.

15.0110 Storage of Vehicles by Collector - Limitations.

A collector may store unlicensed, operable or inoperable, vehicles and parts cars on the collector's property provided the vehicles and parts cars and the outdoor storage area are maintained so they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery, or other appropriate means.

15.0111 Abatement of Nuisance - Penalty

The cost of removal of any abandoned vehicles may be assessed against the property where said abandoned vehicles are located at the time the notice was issued. Such removal and assessment of costs shall not be deemed to be the exclusive remedy of the city. Violation of any of the provisions of this Article is an infraction punishable in accordance with Section 2.0209 of the New England Municipal Code. A warning shall be given for the first offence. Fines for subsequent infractions shall be not less than twenty-five dollars (\$25) or more than five-hundred (\$500) dollars for each subsequent violation, and a separate violation may be deemed committed on each day the violation is permitted to exist.

ARTICLE 2 – Accumulation of Junk on Private Property

15.0201 Definitions

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

1. "Blighted structure" includes, without limitation, any dwelling, garage or outbuilding, or any factory, shop, warehouse or any other store, 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.
2. "Building materials" includes, without limitation, lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws or any other materials used in constructing any structure.
3. "Junk" includes, without limitation, parts of machinery or motor vehicle, unused furniture, stoves, refrigerators or other appliances, remnants of wood, metal or any other castoff material of any kind whether or not the same could be put to any reasonable use.
4. "Person" includes all natural persons, firms, co-partnerships, corporations and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this chapter, whether as owner, occupant, lessee, agent, servant or employee, shall, except as otherwise provided in this chapter, be equally liable as principals.
5. "Trash or rubbish" includes any and all forms of debris not otherwise classified in this chapter.

15.0202 Findings

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

15.0203 Storage Unlawful

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

15.0204 Dismantling Unlawful

It is unlawful for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not it is a junk automobile, abandoned vehicle or otherwise, 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 secondhand goods or junk gatherer.

15.0205 Maintenance of Blighted Structure Unlawful

It is unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store or warehouse unless it is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance thereto by unauthorized persons or unless the structure is in the course of construction in accordance with a valid building permit issued by the city and unless the construction is completed within a reasonable time as directed by the city building or zoning inspector.

15.0206 Building Material Storage

It is unlawful for any person to store or permit the accumulation of building materials on any private property, except in a completely enclosed building or except where the building materials are part of the stock in trade of a business located on the property, or except when the 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 provided further, that any debris resulting from a demolition, renovation, or other construction project must be removed from such premises within thirty calendar days unless the extended storage thereof is within an enclosed structure or being done with the written approval of the building official.

15.0207 Abatement of Nuisance - Penalty

The cost of removal of any of the aforementioned items in this Article may be assessed against the property where said items are located at the time the notice was issued. Such removal and assessment of costs shall not be deemed to be the exclusive remedy of the city. Violation of any of the provisions of this Article is an infraction, punishable in accordance with Section 2.0209 of the New England Municipal Code. A warning shall be given for the first offence. Fines for subsequent infractions shall be not less than twenty-five dollars (\$25) or more than five-hundred (\$500) dollars for each subsequent violation, and a separate violation may be deemed committed on each day the violation is permitted to exist.