

## **ARTICLE 12 – JUNK ORDINANCE**

An ordinance pertaining to storage of junk, building material and other items and the disposal of such items.

BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF MAX, MCLEAN CONTY, NORTH DAKOTA AS FOLLOWS:

### **SECTION 12. General Provisions**

**12.0401 - DEFINITIONS.** The following words or terms when used herein shall be deemed to have the meanings set forth below:

- A. JUNK shall include, without limitation, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, and other appliances, remnants of wood, metal, or any other castoff matter of any kind, whether or not the same could be put to any reasonable use.
- B. BLIGHTED STRUCTURE shall include without limitations, any dwelling, garage, or outbuilding, or 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.
- C. BUILDING MATERIALS shall include, without limitations, lumber, bricks, concrete, or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, cement nails, screws, or any other materials used in constructing any structure.
- D. PERSON shall include 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 article, whether as owner, occupant, lease, agent, servant, or employee shall, except as herein otherwise provided, be equally liable as principals.
- E. NUISANCE shall include anything classified under subparts (a.), (b.), (c.) or (f.) of Section 1, as well as any condition, or accumulation of (i) organic materials or (ii) inorganic materials, or (iii) combination of both, which is located on private property, and which, because of the circumstances in which the condition exists or the materials are stored or accumulated, presents a hazard to the health or safety of any person or which presents a hazard to any other property, private or public.
- F. TRASH, RUBBISH & WASTE shall include any and all forms of debris, not herein otherwise classified.

#### **12.0402 Storage or Accumulation of Trash, Rubbish, Junk, or Nuisance is Unlawful**

It is hereby determined that the storage or accumulation of trash, rubbish, junk, building materials, and the maintenance of blighted structures upon any private property within the City of Max 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.

#### **12.0403 Unlawful to Store or Accumulate Trash, Rubbish, Junk**

- A. It shall be unlawful for any person to store, or permit the storage or accumulation of trash, rubbish, or junk on any private property in the City of Max except within a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer dealer in auto parts, dealer in secondhand goods.

- B. It shall be unlawful for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same be 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.
- C. It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with a valid building permit issued by the City of Max and unless such construction is completed within a reasonable time.

**12.0404 Storage or Accumulation of Building Materials Prohibited**

- A. It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property except in a completely enclosed building or except where such building materials are a part of the stock in trade of a business located on said property or except 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 of Max, provided, however, it shall be unlawful to allow any trash, construction waste or discarded materials to accumulate in such a manner so as to create an unsanitary condition, become a harborage for insects or rodents or become a nuisance to adjacent properties due to blowing or scattering debris.

**12.0405 Authority of City to Remove Junk/Abate Nuisance When Owner Fails to Act – Notice.**

- A. Employees of the City, at the direction of City Council, may remove or cause to be removed any junk, trash rubbish, from any unenclosed private property after providing notice, by ordinary mail addressed to the owner at his last known address or by personal service on the owner, in writing, to the owner or occupant of such property of its intention to do so at least ten (10) days prior to such removal. The person making service shall maintain a permanent record of proof of service. If occupied, notice may be posted in a conspicuous place upon vacant or unoccupied property. Such junk shall be removed to the landfill and disposed of in accordance with law. Such removal by the City of Max designee shall not excuse or relieve any person of the obligation imposed by this article to keep their property free from storage or accumulation of junk, trash, or rubbish nor format the penalties for violation thereof.
- B. Any junk, trash, rubbish, removed from unenclosed private property as provided in this Section, or coming into possession of the City of Max by abandonment on public property in the City of Max which is determined by the city council to be of no value other than as scrap metal shall be disposed of by the manner as to eliminate the unsightly accumulation of such worthless hulks and the hazards to public health attendant thereto with the least practicable day.
- C. Actions taken by the city under and in accordance with subsections (b) and (c), if reasonable in nature and undertaken in good faith, shall not constitute a trespass or conversion.

**12.0701 Hearing on Necessity of Abatement.**

Any owner who shall receive a notice as specified in Section 12.0405 may, within ten (10) days after its receipt or personal service, apply in writing to the city manager for a hearing on the necessity for the abatement of the nuisance described in such notice. Such hearing shall be provided by the city manager or their delegate within ten (10) business days of the filing of the application unless the owner shall agree to a hearing at a later date. The city shall have the burden of proof by the clear weight of evidence that the conditions of which it complains constitute a nuisance as defined in Section 1.

**12.0705 Costs of Abatement of Junk or Nuisance.**

The cost of removal shall include but is not limited to equipment use, labor, and disposal fees. The cost for removal of such junk, trash, or rubbish under and was abated. The city employees/city council shall certify to the City Auditor the description of the property on which the junk was abated, the date and method of removal, and such other information as may be deemed necessary and the City Auditor shall bill the costs to the owner or owners of the property involved, and such bills shall be due and payable immediately, and cost remaining unpaid after 10th day of October of the year in which billed shall be certified by the City Auditor to the County Auditor, who shall spread the same against the lots or parcels of land in the same manner as other special assessments are spread, and such assessments shall be collected at the same time and in the same manner as special taxes are collected.

**12.0706 Other Remedies; Harboring a Nuisance; Penalty.**

The provisions of this article shall not constitute the exclusive remedy of the City of Max to abate nuisances. The city reserves the right to proceed in any court of competent jurisdiction to obtain an injunction requiring abatement of the nuisance and such remedy may be asserted without regard to the notice requirements of this article and the provisions for administrative relief set forth herein. Moreover, the harboring or maintenance of a nuisance shall constitute an offense punishable by a fine of \$50 and each day that such nuisance is harbored or maintained shall constitute a separate offense.

**12.0707 Abatement Without Prior Notice.**

In the event a nuisance as defined under Section 12.0401 shall constitute an immediate and serious danger to the health of any person or shall constitute an immediate and serious danger to private or public property, the city may without prior notice to the owner of the premises immediately enter upon the premises and take whatever steps are required to abate the nuisance. If such actions are reasonable in nature and undertaken in good faith such actions shall not constitute trespass or conversion. Any attempt by the city to give the owner prior notice shall not constitute a waiver of the right under this section to act without prior notice.

**12.0811. Validity.**

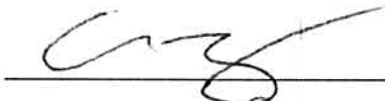

All ordinances and parts thereof in conflict herewith are hereby repealed. If any portion of this ordinance is found to be invalid for any reason, the validity of the remainder shall not be affected.

**12.0812 Severance.**

Any provision of this ordinance held to be unconstitutional or invalid shall not affect other provisions of this ordinance.

FIRST READING: September 8, 2022

SECOND READING: October 3, 2022

  
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MAYOR  
  
\_\_\_\_\_  
AUDITOR

