

TABLE OF CONTENTS

TITLE 5

PUBLIC NUISANCES

<u>Chapter</u>		<u>Page</u>
5-01	<u>Weeds Control</u>	E1-1
5-02	<u>Nuisances</u>	E2-1
5-03	<u>Vehicles - Personal Property</u>	E3-1
5-04	<u>Fences and Trees</u>	E4-1
5-05	<u>Care and Control of Boulevards</u>	E5-1

[Table of Contents](#)

[CHAPTER 5-01](#)

WEED CONTROL

<u>Section</u>		<u>Page</u>
5-01-01	Authority and Definitions	E1-1
5-01-02	Control/Duty	E1-1
5-01-03	Notice by Publication of Ordinance	E1-2
5-01-04	Action Upon Non-Compliance	E1-2
5-01-05	Eradication, Cutting or Control of Weeds and Tall Grasses by Order of the City Auditor	E1-2
5-01-06	Costs Assessed Against Property	E1-3

5-01-01. [Authority and Definitions.](#)

1. The city Auditor shall have the duties and authority as provided by this section. He/she will take direction from the city council.

2. All weeds and tall grasses growing within the limits of the city are hereby declared to be a public nuisance and it shall be the duty of every person owning, occupying, or in charge of any premises, lot or parcel of land in the city to keep that premises, parcel or lot, including the adjacent rights-of-way, easements, berms and boulevards free from all weeds and long and tall grasses by cutting or destroying them at all times during the growing season. Medians separating street sections shall not be included in the requirements of this section.

3. "Weeds" as used in this chapter shall include all weeds contained in North Dakota Administrative Code Section 7-06-01-02 as it defines "noxious weeds."

4. "Tall grasses" shall mean all weeds to contained in North Dakota Administrative Code Section 7-06-01-02 in excess of eight (8) inches in height and all grasses in excess of eight (8) inches in height.

5-01-02. [Control/Duty.](#) It is the duty of every person owning, occupying or in charge of any premises, lot or parcel of land to cut, eradicate or control any weeds to prevent their spread or tall grasses if they exceed eight (8) inches in

height.

5-01-03. Notice by Publication of Ordinance. It shall be the duty of the Auditor to cause a notice of the content of this chapter to be published in the official newspaper of the City once within three days of May 1 and May 15 and once again within three days of July 1 and July 15. These publications shall serve as notice to all landowners, occupants or persons in charge of land of the requirements of this chapter. These publications shall also serve as the official notice to property owners to cut tall grass and weeds. Other methods of notification, such as the media and City of Lincoln's website may also be used to notify landowner, occupants or persons in charge to control tall grass and weeds.

5-01-04. Action Upon Non-Compliance. Upon the failure, neglect, or refusal of any owner or agent so notified to cut, destroy and/or remove noxious weeds 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 Section 5-01-03 or within five days after the date of such notice in the event the same is returned to the City because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the City Council is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or to order their removal by the City.

5-01-05. Eradication, Cutting or Control of Weeds and Tall Grasses by order of the City Auditor. At a minimum, all property shall be mowed by June 1, mowed again July 15 and, if necessary, mowed again by September 1 of each year to comply with the provision of this chapter. The City Auditor may order more frequent cutting of tall grass and weeds if necessary for compliance with this chapter and such notice may be given in person, via telephone or by letter.

1. Whenever any person, firm or corporation owning, occupying or in charge of any premises, lot, or parcel of land within the city, shall fail, neglect or refuse to mow the property at least once by June 1 and again by July 15 of each year in accordance with the provisions of this section or shall fail to eradicate, cut or control weeds or tall grasses within 7 days of receipt of notice from City Auditor, the City Auditor shall order the nuisance to be abated by eradicating, cutting or controlling the weeds or tall grasses in a manner as specified by the City Auditor, if the City Auditor has first complied with the notice requirements of Section 5- 01-03.
2. A person, firm or corporation notified of impeding City action may cause the eradication, cutting or control of weeds or tall grasses at any time before the City eradicates, cuts or controls the weeds or tall grasses located on the property or may appeal the order of the City Auditor in writing to the Office of City Administration to eradicate, cut or control weeds or tall

grasses. The appeal shall be heard by the City Council at their next scheduled meeting.

5-01-06. Costs Assessed Against Property. When the City has effected the eradication, cutting or control of weeds or tall grasses or has contracted for and paid for the eradication, cutting or control of the weeds or tall grasses, the actual cost thereof, if not paid by the owner, must be charged and assessed against the property upon which the weeds or tall grasses were eradicated, cut or controlled. An assessment list showing the costs against each lot or tracts to be assessed shall be prepared as are other special assessment lists and shall be approved by the City Council. All procedures under state law for certification, appeal, payment and collection of special assessments shall apply.

[Table of Contents](#)

[CHAPTER 5-02](#)

NUISANCES

<u>Section</u>		<u>Page</u>
5-02-01	Residences - When Sewer and Water Required	E2-1
5-02-02	Dirt, Filth, Etc., in Street and Property	E2-1
5-02-03	Radio Interference Prohibited	E2-2
5-02-04	Loud, Disturbing, Unnecessary Noises Prohibited	E2-2
5-02-05	Keeping of Animals and Fowl Prohibited	E2-3
5-02-06	Outdoor Fires Prohibited	E2-3

5-02-01. [Residences - When Sewer and Water Required](#). It shall be unlawful and a violation of this Code and is hereby declared to be a public nuisance for any person to use or occupy or permit to be used or occupied for residence purposes, any premises or building within the corporate limits of this City where the lot upon which said building is constructed is located ten 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.

5-02-02. [Dirt, Filth, Etc., in Street and Property](#).

1. It shall be unlawful and a violation of this Code for any person 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, straw, hay, leaves, brush, weeds, dry grass, shavings, boxes, wooden crates, lumber, stable manure, ashes, vegetables, or litter of any kind, and any place or property having left or deposited thereon any of the things or substances aforesaid is hereby declared to be a public nuisance.

2. It shall be unlawful and a violation of this Code for any person to move, dump or deposit by any means any snow or ice accumulated on private property or public sidewalks onto any public street or alley, except that snow or ice may be deposited on the public boulevard or area between the edge of the curb or paved surface of a street or alley and the sidewalk or right-of-way boundary or if there is no sidewalk.

5-02-03. Radio Interference Prohibited. It shall be unlawful and a violation of this Code 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 public nuisance.

5-02-04. Loud, Disturbing, Unnecessary Noises Prohibited. The making, creating, or maintenance of loud, unnatural or unusual and disturbing noises by any person are a detriment to public health, comfort, convenience, safety and welfare and 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, or 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 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 fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie 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.

5-02-05. Keeping of Animals and Fowl Prohibited. Except for domesticated dogs and cats, or except as otherwise permitted by this Code on land zoned A Agricultural District, it shall be unlawful and a violation of this Code for any person to keep any animal or fowl in the City for a period of more than twenty-four hours, unless such person shall have obtained prior specific written permission from the City Council for the keeping of such animal or fowl. As used in this section, "animal" shall mean and include any animal except birds, and "fowl" shall mean and be limited to chickens, ducks, geese, turkeys, peacocks and pigeons. Any animal or fowl kept contrary to the provisions of this section or the specific written permission as granted by the City Council, constitutes a hazard and detriment to public health and safety and is declared to be a public nuisance.

5-02-06. Outdoor Fires Prohibited.

1. Except as authorized by subsections 2 or 3 below, it shall be unlawful and a violation of this Code for any person to permit, cause, maintain or use any outdoor fire or engage in any outdoor burning.
2. Commercially manufactured outdoor cooking appliances (e.g., charcoal grills, propane grills, etc.) may be used provided the following requirements are met:
 - a. The appliance shall be used in a safe manner and in accordance with all manufacturer's recommendations;
 - b. Any appliance using solid fuel (e.g., charcoal, wood, etc.) for its cooking fire shall be kept at least ten (10) feet away from combustible materials;
 - c. The cooking fire shall be extinguished after cooking is completed;
 - d. All ashes shall be disposed of in a non-combustible container which shall be kept at all times outside of all the buildings or structures; and
 - e. The cooking fire shall be continually attended by a person who has readily available an approved fire extinguisher or a hose connected to a water supply.
3. Commercially manufactured outdoor fireplaces (i.e., fireplaces not homemade)

may be used provided the following requirements are met:

- a. The fireplace may be used only when the fire danger index is lower than “extreme”.
 - b. The fireplace shall be used in a safe manner and in accordance with all manufacturer’s recommendations;
 - c. The fireplace shall have a burn pan, lid, and a fire screen surrounding the entirety of the fireplace, and the fireplace shall be at least ten (10) feet away from combustible materials;
 - d. Only wood shall be burned in the fireplace and such wood must be dry, unpainted, unvarnished and untreated, and no leaves, paper, or trash shall be burned; and
 - e. The fire shall be continually attended by a person who has readily available an approved fire extinguisher or a hose connected to a water supply, and no fireplace shall be left unattended until the fire is completely extinguished.
4. Any outdoor fire or burning permitted, caused, maintained or used contrary to the provisions of this section constitutes a hazard and detriment to public health and safety and is declared to be a public nuisance.

[Table of Contents](#)

[CHAPTER 5-03](#)

VEHICLES - PERSONAL PROPERTY

<u>Section</u>		<u>Page</u>
5-3-1	Definitions	E3-1
5-3-2	Accumulation of Certain Items Prohibited	E3-2
5-3-3	Abatement Required by Owners	E3-2
5-3-4	Abatement Required, Penalty for Failure	E3-2
5-3-5	Abandoned Personal Property	E3-2
5-3-6	Removal and Impoundment by City	E3-3
5-3-7	Redemption of Impounded Property	E3-3
5-3-8	Sale of Unclaimed Property.	E3-3
5-03-09.	Disposal of Worthless Unclaimed Property.	E3-4
5-03-01.	<u>Definitions.</u> As used in this chapter, the following words shall have the meaning respectively ascribed to them:	
1.	"Boulevard" shall have the same meaning as defined in Section 5-05-01.	
2.	"Motor vehicle" means a vehicle as defined in Subsection 89 of N.D.C.C. Section 39-01-01 which is, or by its design is intended to be, self-propelled.	
3.	"Private premises" means any lot, tract or parcel of land not owned by the City.	
4.	"Unsheltered storage" means the state of being located on private premises outside of a completely enclosed building.	
5.	"Residential Districts" means R-1, R-2, R-5, R-7, R-9, PUD, and RMH.	
6.	"Commercial, Industrial, and Agricultural Districts: means C-1, I-1, and A.	

5-03-02. Accumulation of Certain Items Prohibited.

1. Residential District. No person shall cause, permit, keep, accumulate or allow the accumulation of any commercial equipment, junk refuse, surplus, scrap, salvage or other similar items in unsheltered storage for a period in excess of ten days in any residential district. The items for which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household appliances, machinery, farm machinery, commercial equipment, used building materials, construction or demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items. The fact that an item or items has value or is operational shall not excuse conduct prohibited by this title.

2. Commercial, Industrial, or Agricultural District. No person shall cause, permit, keep, accumulate or allow the accumulation of any junk refuse, surplus, scrap, salvage or similar items outside of a closed building or opaque fencing in any commercial, industrial, or agricultural district. The items of which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household or commercial appliances, used building materials or salvage, construction demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, used tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or similar items. The fact that an item or items may have value does not excuse the conduct prohibited by this section.

5-03-03. Abatement Required by Owners. The owner, owners, tenants, lessees and/or occupants of any private premises upon which 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, within ten days of receipt of written notice to abate nuisance given by the Lincoln Police Department, abate said nuisance by removal of said property into completely enclosed buildings authorized to be used for storage purposes under City zoning regulations or otherwise by removal of said property to a location outside both the corporate limits and the extra-territorial zoning jurisdiction of the City.

5-03-04. Abatement Required, Penalty for Failure. If said owners allow said nuisance to exist or fail to timely abate said nuisance as provided by this chapter they, and each of them, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than five hundred 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.

5-03-05. Abandoned Personal Property. Any personal property abandoned or left unclaimed upon the streets, alleys or other public ways of the City for a period

exceeding ten days, may be removed and impounded by the Lincoln Police Department in the same manner as provided in Section 13-13-14 of this Code.

5-03-06. Removal and Impoundment by City. The Lincoln Police Department may remove or cause to be removed to a place of safety within or outside of the City, selected for the purpose, any vehicle or personal property described in Section 5-03-05 or in subsection 2 of Section 13-13-14 of this Code and may impound and retain the same 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. The charges for such removal, storage and impounding shall be as the City Council shall by resolution from time to time establish.

5-03-07. Redemption of Impounded Property. Subject to Section 5-03-08, the owner of any vehicle or other personal property removed or impounded pursuant to this chapter or Section 13-13-14 of this Code, or any other party authorized under N.D.C.C. Chapter 39-26, may redeem such property upon showing proof of ownership or other lawful claim and payment of all costs and expenses of removal, impoundment and storage and all other fines, costs and claims of the City.

05-03-08 Sale of Unclaimed Property.

1. Whenever any vehicle or other personal property has come into the control or possession of the Lincoln Police Department and remains unclaimed and the towing, storage and other charges thereon are unpaid for a period of sixty days, and the owner cannot be found upon diligent inquiry or being found and notified refuses or neglects to receive the property and pay the legal charges thereon within such sixty day period, the Lincoln Police Department shall sell the property at public sale
2. Prior to sale of any such property, notice of sale must be mailed, by regular mail, to the registered owner of the property, if known, as shown by records of the State Department of Transportation, at least ten days in advance of the scheduled sale.
3. Notice of such sale and a list of all property to be sold must be posted at the location where the property is stored at least ten days in advance of the scheduled sale. A notice of such sale must be published in a local newspaper at least ten days in advance of the sale, and the list of property need not be published therewith if the notice gives the location where the list is posted.
4. Out of the proceeds of such sale, the City shall first be reimbursed for the cost of the towing, storage and other charges and costs of sale, and the balance of the proceeds, if any, shall be paid to the general fund of the City, subject to subsection 7 below and N.D.C.C. Chapter 39-26.
5. The Lincoln Police Department shall give the purchaser of any property a bill of sale and such receipt, if any, required by N.D.C.C. Chapter 39-26.

6. Within thirty days after the sale the person making the sale shall make out, in writing, and file with the City Auditor a full report of the sale specifying the property sold, the amount received therefore, the amount of costs and expenses, and the disposition made of the proceeds of the sale.
7. At any time within six months of the sale of any property, the owner of the property at the time of sale or such other party authorized under N.D.C.C. Chapter 39-26, upon written application and submission of proof of ownership or other lawful claim, shall be entitled to receive the proceeds of the sale from the City, less the necessary expense of removing, storing and selling the property and all other fines, costs and claims of the City. Redemption of property pursuant to Section 5-03-07 may be made at any time prior to sale upon payment of all costs and expenses.

5-03-09. Disposal of Worthless Unclaimed Property.

1. Whenever personal property other than a vehicle is subject to public sale under Section 5-03-08 but the property is deemed by the Lincoln Police Department to be worthless or of such negligible value that the costs of advertising and holding a public sale would substantially exceed the fair value of the property, the Lincoln Police Department shall dispose of the property by any appropriate means.
2. If the owner of the property to be disposed of can be ascertained by reasonable inquiry, an inventory of property to be destroyed and a copy of this section shall be mailed, by certified mail, to the owner's last known address at least ten days in advance of disposal of the property. Mailed notice under this subdivision is not required if the property was removed as part of a legal proceeding against the owner for public nuisance and service of process of that legal proceeding was personally made upon the owner.
3. Within thirty days after disposing of the property, the Lincoln Police Department shall make out, in writing, and file with the City Auditor a full report of the disposal specifying the property that was disposed of, the means of disposal, and the costs of disposal. The costs of disposal of the property shall be billed to the property. If payment has not been made within thirty (30) days, then these costs shall be charged to the special assessments of that property Nov. 1.

[Table of Contents](#)

[CHAPTER 5-04](#)

FENCES AND YARDS

<u>Section</u>		<u>Page</u>
5-04-01	Fences	E4-1
5-04-02	Lawn Establishment	E4-1
5-04-03	Violation and Penalty	E4-1
5-04-04	Action Upon Non-Compliance	E4-1
5-04-05	Cost Assessed to Property	E4-2

5-04-01. [Fences](#). Yard fences of non-hazardous construction may be erected by lot owners, but they shall not extend over any portion of the lot beyond the utility easement at the rear of the lot or beyond the front of the house located on said lot or on a corner lot within a triangular area formed by street property lines and a line connecting the property lines twenty-five feet from the intersection of the street lines.

5-04-02 [Lawn Establishment](#). Seeding or other acceptable ground cover is required by new residents in front, rear, and side yards provided that adequate cover is provided within one (1) year to prevent erosion or disruption. New residents the year starts upon Water Connection Application. Current residents owning property within the City should have one year from letter of warning, which will be sent certified mail.

5-04-03. [Violation and Penalty](#). The City Auditor shall hereby be 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 about their violation. 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 thirty (30) days to comply for sections 5-04-01 and 5-04-02.

5-04-04. [Action Upon Non-Compliance](#). Upon the failure, neglect, or refusal of any owner or agent to comply after receipt of the written notice provided for in Section 5-04-03 in the event the same is returned to the City because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the City Council is hereby authorized and empowered to pay for the removal or establishment by either the City or by contract.

5-04-05 Cost Assessed to Property. When the City has effected the removal or establishment or has paid for removal or establishment, the actual cost thereof, if not paid by said owner prior thereto, shall be charged and assessed against the property upon which the compliance took place. 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. 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.

[Table of Contents](#)

[CHAPTER 5-05](#)

CARE AND CONTROL OF BOULEVARDS

<u>Section</u>		<u>Page</u>
5-05-01	Definition	E5-1
5-05-02	Responsibility for Maintenance	E5-1
5-05-03	Specifications and Maintenance	E5-1
5-05-04	Notice of Violation and Abatement	E5-2
5-05-05	Immunity for Damage	E5-2

5-05-01. Definition. As used in this chapter, the word "boulevard" means the margin of municipal property which extends from the edge of the hard surface streets, or curb and gutter, whichever is applicable, to the property line of the front and/or side of each lot.

5-05-02. Responsibility for Maintenance. It shall be the responsibility of the current property owner to maintain the boulevard which abuts the platted lot.

5-05-03. Specifications and Maintenance.

a. All boulevards shall be graded in such a manner as to facilitate natural drainage and to blend the property grade with the elevation of the top edge of the hard surface street. Boulevards shall be modified in order to accommodate expansion of the width of driveways, but such expansion must abut existing driveway. No hard surfacing of boulevards shall be permitted except for driveway expansion. The property owner shall maintain the boulevards, mowing grass and controlling weeds.

b. The following vegetation and other adornments, and no others, are acceptable on boulevards:

1. Hardy grass, which must be maintained in uniformity with the abutting platted lot;
2. Annuals, perennials, and ornamental grasses, not to exceed two feet in height, kept free of weeds, and placed at least two feet from the hard surface street or curb and gutter, whichever is applicable;
3. Fill material, including rocks, gravel, or wood chips, none of which may exceed

three inches in diameter, maintained level with the abutting platted lot and kept free of weeds;

4. Border and edging material, not to exceed one foot in height;

5. Planters, which must not exceed two feet in diameter or three feet in total height including plants and which must be spaced five feet apart and two feet from the hard surface street or curb and gutter, whichever is applicable;

6. Ornamental items, including lights or rocks, which must not exceed eighteen inches in height or width and which must be placed two feet from the hard surface street or curb and gutter, whichever is applicable; or

7. Trees and shrubs, planted and maintained in accordance with section 1-11-06 and placed at least two feet from the hard surface of the street or curb and gutter, whichever is applicable.

5-05-04. Notice of Violation and Abatement. Any boulevard not maintained in compliance with this chapter is unlawful and a violation of this Code and is hereby declared to be a public nuisance and any property owner violating or failing to comply with any of the provisions of this chapter shall be served notice of such violation accompanied by specifications for compliance. If, after thirty days, no satisfactory action has been taken to meet the specifications included in the notice, the City may undertake corrective action, accounting for time and materials for such work, and subsequently certifying same to the County Auditor for addition to that year's property tax statement.

5-05-05. Immunity for Damage. Neither the City of Lincoln, its employees or agents, nor any person or entity under contract to the City of Lincoln shall be liable for damage to vegetation or other adornments of any boulevard within the City of Lincoln, regardless of cause or fault.