# TITLE XV.

# HEALTH

CHAPTERS:


15-01. Board of Health and Health Officer.
15-02. Garbage.
15-03. Public Nuisances.
15-04. Swimming and Wading Pools.
15-05. Smoking in Public Places. (Repealed by Ord. 941)
15-06. Smoke and Gasses.
15-07. Food Service Establishments.
15-08. Child Care Centers.
15-09. Pet Stores.
15-10. Regulations Relating to Cleanup of Clandestine Drug Lab Sites and Chemical Dump Sites.
15-11. Soft-Serve Freezing/Dispensing Machines.
15-12. Hotels and Motels. (Source: Ord. 885, Sec. 1 [2011])

# CHAPTER 15-01

## BOARD OF HEALTH AND HEALTH OFFICER.

SECTIONS:

15-0101. Board of Health; Members; Powers; City Health Officer and Assistants.
15-0102. Duties of Health Officer, Assistants.
15-0103. City Health Officer, Assistants: Appointment.
15-0104. Regulations, Notice of.
15-0105. Power to Enter Building.

---

15-0101. BOARD OF HEALTH; MEMBERS; POWERS; CITY HEALTH OFFICER AND ASSISTANTS. The Board of Health shall be the Board of City Commissioners. The Board of Health shall have and exercise all powers under the law. The City Health Officer shall be the executive officer of such board. The Board of City Commissioners may appoint one or more assistant City Health Officers to aid the City Health Officer in the performance of his duty.

15-0102. DUTIES OF HEALTH OFFICER, ASSISTANTS. The City Health Officer and his assistants, if any, shall have the following powers and duties:

1. He shall see that the health ordinances of the City, the rules and regulations of the Board of Health and the regulations of the State Board of Health and the health laws of the State are fully complied with throughout his jurisdiction and he is charged with the strict enforcement of the same.

2. Make such recommendations to the Board of Health as to him shall appear necessary for the preservation of public health.

3. Exercise all other powers and duties granted or imposed under the laws of the State of North Dakota and the ordinances of the City of West Fargo.

15-0103. CITY HEALTH OFFICER, ASSISTANTS: APPOINTMENT. The Board of City Commissioners shall appoint a City Health Officer for the City of West Fargo in the manner and for the term provided for the appointment of other officers by the Board of City Commissioners. The Board of City Commissioners may appoint one or more Assistant City Health Officers for the City of West Fargo, and if any such appointment is made, it shall be for the term provided for the appointment of other officers by the Board of City Commissioners.

15-0104. REGULATIONS: NOTICE OF. The Board of Health shall give notice, as provided by the laws of the State of North Dakota, of all general orders and regulations made by such Board, by publishing the same in the official newspaper within the jurisdiction of the Board, which publication shall be deemed a legal notice to all persons.

15-0105. POWER TO ENTER BUILDING. Whenever the Health Officer of the City of West Fargo, or his assistant, or the Board of City Commissioners shall deem it necessary for the preservation of the health of the inhabitants within the City, to enter any building within the City of West Fargo for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth or cause of sickness, and shall be refused entrance, the City Health Officer or his assistant or any member of the Board of City Commissioners may make complaint under oath to the Municipal Judge of the City of West Fargo, stating the facts in the case, so far as he has knowledge thereof. Such Municipal Judge shall promptly review such complaint and if such complaint is reasonably based in fact shall thereupon issue a writ of entry directed to the Chief of Police of the City of West Fargo, sheriff or other peace officer, authorizing him to take sufficient aid and, accompanied by the City Health Officer or his assistant, or by at least one (1) member of the Board of City Commissioners of West Fargo, between the hours of sunrise and sunset, enter said building to have such nuisances, sources of filth. or cause of sickness destroyed, removed or prevented under the direction of the City Health Officer or his assistant, or such member of the Board of City Commissioners as accompanied him.

# CHAPTER 15-02

# GARBAGE

SECTIONS:


15-0201. Definition of Terms.
15-0202. Garbage Cans - Required - Capacity - Construction.
15-0203. RESERVED FOR FUTURE USE.
15-0204. Garbage Can to be Emptied: When.
15-0205. Who May Remove Contents of Garbage Can.
15-0206. Removal of Garbage Not to be Interfered With.
15-0207. Garbage Collection Fees.
15-0208. Collection by City Employees or by Contract.
15-0209. Garbage Contract - Advertising for Bids - Awarding-Bond Required.
15-0210. Garbage Not Meeting Specifications.
15-0211. Duty of City Sanitation Superintendent.
15-0212. Other Garbage Haulers.
15-0213. Enclosure for Garbage Vessels.
15-0214. Penalty.
15-0215. Separability of Provisions of Article.
15-0216. Collection of Recyclable Materials.
15-0217. Anti-Scavenging Clause.


---

15-0201. DEFINITION OF TERMS. The following definitions shall apply in the interpretation and enforcement of this chapter.

1. Garbage. The term garbage as herein used shall mean every refuse accumulation of animals, fruit, or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fruit, or vegetables.

2. Rubbish. The term rubbish as herein used shall mean all refuse not included in garbage and ashes. It includes tin cans, bottles, glass, scraps of iron, tin, wire, or other metals, rags, old clothing, unflattened paper containers, paper not used in preparation of food and drinks, old rubber, pieces of wood, boxes, barrels, crates, feathers, weeds, grass, lawn clippings, tree limbs, provided they are bundled or boxed and under two inches in diameter and not more than two feet in length, and similar refuse of every character collected or accumulated within the City of West Fargo.

3. Ashes. Ashes are the residue from burning of wood, coal, coke, or other combustible materials for the purpose of heating, cooking, and disposing of waste and combustible materials.

Source: Ord. 33, Sec. 1 (1950); Ord. 33-A, 2.2 (1956); Ord. 123, Sec. 2 (1965); Ord. 299, Sec. 1 (1981).

4. Recyclable Material. Newsprint, rinsed glass bottles and jars and other glass containers without rings and caps, aluminum cans, tin and steel cans, flat corrugated cardboard, plastics, and scrap metal.

Source: Ord. 496, Sec. 1 (1995); Ord. 563, Sec. 2 (1999).

15-0202. GARBAGE CANS - REQUIRED - CAPACITY - CONSTRUCTION. Every owner or occupant of any house, hotel, restaurant, building, flat, apartment, tenement, commercial building, tourist court or mobile home park unit in this City, where persons reside, board or lodge, or where animal or vegetable food is accumulated, kept for sale, prepared or served, shall provide for such house, hotel, restaurant, building, flat, apartment, tenement, commercial building, tourist court or mobile home park unit, and at all times maintain in good order a vessel or vessels for garbage.

For each flat, apartment, tenement, building or mobile home park unit, one (1) such vessel for each living unit shall be provided.

Such vessel for garbage shall be watertight and made of metal or plastic with a close-fitting metal or plastic cover, and shall have a capacity of not less than ten (10) nor more than thirty-three (33) gallons. However, one (1) or more larger containers of such size and type as is approved by the City Public Works Director may be used if such Public Works Director determines the same to be necessary. Garbage receptacles should be placed on the premises, under the direction of the Public Works Director as to be easily accessible to the garbage collectors.

Source: Ord. 33, Sec. 3 (1950); Ord. 33-A, Sec. 4 (1956); Ord. 123, Sec. 4 (1965); Ord. 299, Sec. 2 (1981); Ord. 506, Sec. 1 (1996).

15-0203. RESERVED FOR FUTURE USE.

15-0204. GARBAGE CAN TO BE EMPTIED: WHEN. All garbage receptacles shall be emptied on the following schedule: In the case of private residences, said garbage collection shall be made at least once each week; and for all other places of business garbage collection shall be made as often as deemed necessary by the City Sanitation Superintendent.

Source: Ord. 33, Sec. 4 (1950); Ord. 33-A, Sec. 6 (1956); Ord. 123, Sec. 6 (1965); Ord. 227, Sec. 1 (1976); Ord. 299, Sec. 4, (1981).

15-0205. WHO MAY REMOVE CONTENTS OF GARBAGE CAN. It shall be unlawful for any person, firm or corporation, or any agent or

employee thereof to haul, carry or convey through, along, or upon any public street, alley or sidewalk within the City of West Fargo, any garbage, rubbish, or ashes as classified under this chapter unless employed, licensed or permitted by the City of West Fargo, to carry or convey garbage.

15-0206. REMOVAL OF GARBAGE NOT TO BE INTERFERED WITH. No person shall obstruct, delay or interfere with any garbage collector engaged in collecting or removing garbage, rubbish, or ashes who is under the employ, license, and permit of the City of West Fargo.

15-0207. GARBAGE COLLECTION FEES. The fees for garbage collection shall be paid monthly in advance and shall be as follows:

1. Single Family Residence: $13.00 per month.

2. Multiple Dwellings and mobile home park unit property: $13.00 per month for each house keeping unit.

3. Commercial Establishments, factories, places of public entertainment and other business places shall be charged $3.15 per cubic yard collected per month, with a minimum monthly charge of $13.60 per month.

4. Commercial Establishments, factories, places of public entertainment and other business places may rent dumpsters from the City, if available. The rental charge shall be $5.30 per cubic yard capacity of dumpster per month.

The payment in all cases for garbage service pickup collection and disposal shall be made directly to the City of West Fargo.

Notwithstanding any other provisions of this ordinance, any person receiving a reduction in the assessment or assessed valuation of their homestead in accordance with Section 57-02-08.1 of the North Dakota Century Code shall pay a fee of $4.00 per month for garbage collection.

SOURCE: Ord. 417, Sec. 4 (1991); Ord 685, Sec. 1 (2003); Ord. 724, Sec. 3 (2004); Ord. 794, Sec. 1 (2006); Ord. 874, Sec. 3 (2010); Ord. 931, Sec. 1 (2012)

15-0208. COLLECTION BY CITY EMPLOYEES OR BY CONTRACT. The City either may purchase, maintain, or lease and operate equipment for the removal and disposal by City employees of all or any part of the garbage, rubbish, and ashes within the City of West Fargo or may provide for the collection, removal, or disposal thereof, in whole or in part, by any person, firm, or corporation with whom the City now has, or hereinafter may have, duly contracted as hereinafter provided.

15-0209. GARBAGE CONTRACT - ADVERTISING FOR BIDS - AWARDING - BOND REQUIRED. If it shall be deemed advisable by the Board of City Commissioners, the City Auditor shall advertise for bids for the removal of garbage, rubbish, and ashes out of the City limits under such conditions as the Board of Commissioners may designate. Such notice shall be published twice, once each week in the official newspaper of the City of West Fargo. Each bid shall be accompanied by a certified check in the sum of Five Hundred Dollars ($500.00), payable to the order of the City Treasurer, which check shall be forfeited to the City if the successful bidder fails to enter into a contract with the City and give bond as provided below. The contract or contracts, as the case may be, shall be awarded to the lowest responsible bidder or bidders, if to be let by competitive bids. The person or persons obtaining such contract from the City shall execute a bond to the City of West Fargo in such sum as the Board of City Commissioners may provide for the full and faithful performance of all the agreements of said contract and a complete compliance with this ordinance.

15-0210. GARBAGE NOT MEETING SPECIFICATIONS.

A. The following items shall not be picked up as part of the garbage collection system of the City of West Fargo, and it shall be unlawful to place out for collection any of the following items:

1. Liquids.

2. Sludges (including sewage sludges, lime sludges, bar screenings and similar materials).

3. Animal manure.

4. Septic tank pumpings.

5. Unrinsed pesticide containers.

6. Hazardous wastes including:

   a. Ignitibles (solvents, fuels and similar materials).
   b. Corrosives (acids, alkalies and similar materials).
   c. Reactives (hypo chlorites, swimming pool chemicals, cyanides, and similar materials).
   d. EP toxic (paint sledges containing lead, chrome and similar materials).

7. Waste oil.

8. Asbestos.

9. Infectious wastes.

10. PCB's.

11. Large quantities of fly ash, soluble material, such as salt, may be restricted or require special handling.

B. The following items will be picked up not as part of the regular collection, but for a special fee to be set by the Public Works Director:

1. Lead acid batteries.

2. Tires.

3. Appliances.

4. Furniture.

5. Other items with the approval of the Public Works Director.

Source: Ord. 506, Sec. 2 (1996).

15-0211. DUTY OF CITY SANITATION SUPERINTENDENT. It shall be the duty of the City Sanitation Superintendent of the City of West Fargo to make such rules as he may deem necessary to regulate, enforce and carry out provisions of this chapter.

15-0212. OTHER GARBAGE HAULERS. No person, firm, corporation, or other business entity shall engage in the business of removing, collecting, transporting, or disposing of garbage, rubbish, ashes or recyclable materials as defined in Section 15-0201 within the city limits of West Fargo without first having obtained a permit therefor from the City Auditor. The fee for such permit shall be $15. A separate permit shall be required for each entity served in West Fargo. The permit for hauling garbage under this chapter shall only be granted when the City Public Works Director, in his discretion, determines that it would not be feasible for the City to haul garbage from a specific commercial or industrial facility because of the quantity or unusual nature of the garbage. Application for such permit shall be made to the Public Works Director upon forms provided by him, and such application shall contain, among other things, the following information: the name of the hauler, its address and description of vehicle or vehicles in which garbage or recyclable materials are to be hauled in West Fargo, and the name and address of the specific commercial or industrial entity to be served. Such permit shall be valid for a one (1) year period, and the applicant must reapply each year thereafter for a new permit. The permit may be revoked by the Board of City Commissioners for violation of any provisions of this chapter. No such revocation shall become effective until notice shall first be given to the holder of the permit by certified mail stating the reasons for such revocation. Such revocation shall

become final unless, within seven (7) days from the date of the mailing of such notice, the holder of such permit shall, in writing, request a hearing thereon by the Board of City Commissioners. The hearing shall be held at the next regularly scheduled meeting of the Board of City Commissioners, and the decision of the Board shall be final.

Source: Ord. 398, Sec. 1 (1990); Ord. 496, Sec. 2 (1995); Ord. 513, Sec. 1 (1997)

15-0213. ENCLOSURE FOR GARBAGE VESSELS. All dwelling units and All commercial establishments shall have approved enclosures for garbage cans which enclosures must meet minimum specifications set forth by the Board of City Commissioners and on file with the City Auditor.

15-0214. PENALTY. Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such a violation continues shall be considered a separate offense.

15-0215. SEPARABILITY OF PROVISIONS OF ARTICLE. It is the intention of the Board of City Commissioners that the separate provisions of this article shall be deemed independent of all other provisions herein, and it is further the intention of said Board that if any provisions of this article be declared invalid, all other provisions thereof shall remain valid and enforceable.

15-0216. COLLECTION OF RECYCLABLE MATERIALS. Residents of residential dwellings and commercial buildings may participate in the City's plan of separation of recyclable materials as defined in Section 15-0201. The collection of separated materials shall be at such regular times as set by the City. Materials shall only be collected if set out in special recycling containers authorized by the City.

Source: Ord. 496, Sec. 3 (1995)

15-0217. ANTI-SCAVENGING CLAUSE. Ownership of separated recyclable materials set out for collection by the City shall be vested in the City. It shall be unlawful for any person, firm, or corporation to pick up separated recyclable materials for his/her own use, except the owner, lessee, or occupant of a residential dwelling may take back materials set out at that particular dwelling. In addition, any person, firm, or corporation may pick up recyclable materials pursuant to a special permit as provided in Section 15-0212.

Source: Ord. 496, Sec. 4 (1995)

# CHAPTER 15-03

## PUBLIC NUISANCES

SECTIONS:


15-0301. Nuisances - Defined.
15-0302. Nuisances Prohibited.
15-0303. Definitions.
15-0304. Sanitary Nuisances.
15-0305. Noxious Weeds.
15-0305A. Control of Grasses and Non-Noxious Weeds.
15-0306. Trees and Hedges as Traffic Hazards - Nuisances.
15-0307. Junk Automobile, Building Materials - Storage or Accumulation Contrary to Public Health and Welfare.
15-0308. Abandoned Automobiles - Unclaimed Personal Property - Nuisance.
15-0309. Snow and Ice Removal - Sidewalks - Nuisance.
15-0310. Snow and Ice Removal - Public Streets - Nuisance.
15-0311. Dumping - Excavation - Nuisance.
15-0312. Notice to Remove Nuisances.
15-0313. Failure to Remove - Prosecution.
15-0314. Failure to Remove - Civil Penalty.
15-0315. Penalty.
15-0316. Authorized Persons.
15-0317. Odor - Nuisance.
15-0318. Nuisances on Park Property.


---

15-0301. NUISANCES - DEFINED. In all cases where no specific provision is made defining what is a nuisance and how the same may be removed, abated or prevented, in addition to what may be declared such herein, those offenses which are known to the common law of the land and the statutes of North Dakota as nuisances may, in case the same exist within the City of West Fargo, be treated as nuisances, and, in addition to those remedies otherwise provided by law, may be proceeded against as in this chapter, provided or in accordance with any other law which shall give the Court hearing the same jurisdiction.

15-0302. NUISANCES PROHIBITED - PERSONS DEFINED. No person, as owner or occupant of any lot or tenement, shall cause or permit any nuisance to be or remain in or upon any such lot or tenement or between the same and the center of the street or alley adjoining. For purposes of this Title, the term "person" includes, where relevant, corporations, unincorporated associations, or other legal entities. For purposes of this Title, words used in the singular include the plural, and the plural, the singular. Words in the masculine gender include the feminine and neuter genders.

15-0303. DEFINITIONS. Whenever used in this Title, each of the following words and phrases shall have the meaning ascribed to it:

1. "Garbage" shall mean all manner of kitchen and table refuse and offal, including decayed fruit, animal and vegetable matter, manure, metal cans, bottles, and other foreign waste matter.

2. "Noxious Weeds" shall mean any species of plant or vegetation recognized by the North Dakota State Weed Board as noxious.

   Source: Ord. 779, Sec. 1 (2006)

3. "Junk" shall include, without limitation, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use.

4. "Junk automobiles" shall include, without limitation, any motor vehicle which is not licensed for use upon the highways of the State of North Dakota for a period in excess of Sixty (60) days, and shall also include whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of sixty (60) days, provided however, that excepted from this definition are unlicensed but operative vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.

5. "Abandoned vehicle" shall include, without limitation, any vehicle which has remained on private property for a period of forty-eight (48) continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.

6. "Building materials" shall include, 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 material used in constructing any structure.

7. "Demolition materials" shall include, without limitation, debris resulting from the demolition of buildings; such as concrete, stone, plaster, bricks, concrete blocks, and other materials that are the result of demolition and construction operations.

8. "Earth material" shall include any rock, gravel, natural soil or fill or any combination thereof.

9. "Hazardous Waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form which (a) because of its quantity, concentration, or physical, chemical, or other characteristic, in the judgment of the North Dakota State Health Department may (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, disposed of, or otherwise managed; or (b) is identified by the mechanisms established in thischapter. Such wastes include, but are not limited to, those which exhibit extraction procedure (EP) toxicity, corrosivity, ignitability, or reactivity. The definition of hazardous waste above shall automatically be amended to adopt any amendments to Section 23-20.3-02(5), North Dakota Century Code, and any such amendments shall be of the same force and effect as if fully set out in this Ordinance.

10. "Trash and rubbish" shall include any and all forms of debris not herein otherwise classified.

15-0304. SANITARY NUISANCES.

1. PUMPING SEWAGE INTO OPEN GROUND PROHIBITED. It shall be a nuisance and offense for any person to pump the contents of any cesspool or septic tank or privy vault or other receptacle for the disposal of sewage upon the ground or into any open ditch or drainage course or to dispose of sewage in any manner other than by depositing the same in sewers, privy vaults, cesspools, septic tanks, or similar receptacles or by having said sewage or the contents of any of said receptacles hauled to someplace far enough from the platted portions of this City so as not to create any offensive odor or be a menace to health, and there to dispose of the same by the use of fire, chemicals, or other methods best suited to eliminate odor, destroy pathogenic bacteria and flies.

2. CELLAR, VAULT, PRIVATE DRAIN, CESSPOOL, OR SEWER NOT TO BECOME NAUSEOUS. No person shall allow or permit any cellar, vault, private drain, cesspool, or sewer upon any premises belonging to or occupied by him or her within the limits of the City to become foul, offensive, or injurious to the public health.

3. HARBORAGE FOR VERMIN PROHIBITED. It shall be a nuisance and offense for any person to accumulate on any premises, improved or vacant, and on all open lots and alleys in the City of West Fargo, any lumber, boxes, barrels, bricks, stones, or similar materials that may be permitted to remain thereon unless the same shall be placed on open racks that are elevated not less than eighteen (18) inches from the ground, and evenly piled or stacked so that these materials will not afford harborage for vermin.

4. DECAYED ANIMAL MATTER NOT TO REMAIN IN CITY. It shall be a nuisance and offense for any person having ownership or control of any animal matter which is unsound or in process of decay within the City of West Fargo, to permit the same to be and remain, while in such condition, within said City, or within one (1) mile of the limits thereof, more than twelve (12) hours after such animal matter shall have become unsound, or after the process of decay shall have begun in the same, whether it be at any establishment for the rendering or changing the character thereof, or elsewhere within the said City, or within one(1) mile of the limits thereof.

5. ACCUMULATION OF ANIMAL WASTE PROHIBITED. It shall be a nuisance and offense for any person, firm, corporation, occupant, or agent or employee thereof, to accumulate or to allow the accumulation of animal waste or excrement such that the conditions of the premises or any structure become, in the opinion of the health officer or his designee offensive and injurious to the public health or to the welfare of any animals kept on the premises. The accumulation of animal waste or excrement shall be deemed a nuisance and shall be abated by the health officer or his designee.

6. CASTING, THROWING OR DEPOSITING GARBAGE IN PUBLIC PLACES PROHIBITED. It shall be a nuisance and offense for any person to cast, throw, deposit or allow to accumulate in or upon any street, alley or other public place or in any ditch adjacent to any street, alley or other public place, any ashes, tin cans, garbage, rubbish, manure or refuse of any kind.

7. ACCUMULATION OF RUBBISH AND GARBAGE IN CITY LIMITS PROHIBITED. It shall be a nuisance and offense for any person to permit or suffer to accumulate in or about any yard, lot, place or premises, or upon any street, alley, sidewalk or City property, adjacent to or abutting upon any lot, block, place or premises owned or occupied by him within the City limits, refuse, vegetables, decayed or decaying substances, garbage, paper, rubbish, manure,

dead animals or ashes or filth of any kind nor suffer such yard, lot, place or premises to be or in such condition. Provided, however, that such section shall not preclude a person from maintaining a compost heap on property owned or leased by that person from materials obtained from that property and to be used on that property.

8. STAGNANT WATER, DUTY TO DRAIN. It shall be a nuisance and offense to allow stagnant water to stand or to remain along the line of any railroad, street, highway, alley, public place or along or upon any land within the City of West Fargo. It shall be the duty of all persons having, using, or occupying land, either as owners, tenants, or having control thereof as agents or otherwise, to remove or drain or cause to be removed or drained all stagnant water therefrom, and upon the order of the City to take all necessary steps to permanently alleviate that problem, including, but not limited to, filling the area in which the stagnant water is or has been standing.

Source: Ord. 779, Sec. 2 (2006); Ord. 800, Sec. 1 (2007)

15-0305. NOXIOUS WEEDS PROHIBITED. It shall be a nuisance and offense for any person owning or occupying any lot or tenement in the City of West Fargo, to grow or allow to grow thereon any Noxious Weeds.

Source: Ord. 779, Sec. 3 (2006)

15-0305A. CONTROL OF GRASSES AND NON-NOXIOUS WEEDS.

1. No grasses or non-noxious weeds shall be allowed to grow more than eight inches (8") in length upon or along the line of any railroad, street, highway, alley, public place, along or upon any vacant or other lot or place within the City. An area having more than thirty percent (30%) of grass plants or non-noxious weeds in excess of eight inches (8") in length shall be deemed a violation of this section.

2. It shall be the duty of all property owners, occupants, or persons having control over private property to maintain the growth of grasses or non-noxious weeds on such property so that it does not exceed eight inches (8") in length. These requirements apply to areas along and upon any railroad, street, highway, alley, public place or along or upon any vacant or other lot or place within the City. An area having more than thirty percent (30%) of grass plants or non-noxious weeds in excess of eight inches (8") in length shall be deemed a violation of this section.

3. Notice of a violation of this section shall be mailed to the registered property owner as shown in the property tax records maintained in the City Assessor's office, upon any agent of the property owner, and upon any occupant of the property when appropriate. The owner, agent, tenant or person in charge of the property shall take appropriate action to cut and maintain all grasses and non-noxious weeds not to exceed eight inches (8") in height, as directed by the City within the specified period of time. Such notice may include notice to fill excavations and remove dirt piles so as to allow for the proper mowing of the grasses or non-noxious weeds. If the property owner, tenant, or agent fails to take such appropriate action within the time period as directed by the City, the City shall have authority to cut or mow the non-noxious weeds and grasses, fill any excavations, or remove dirt piles and assess the costs against the landowner.

4. The requirements of this section requiring control of non-noxious weeds and grasses do not apply to property where the owner or person in control of the property has applied for and obtained a land management plan permit from the City allowing grass growth or non-noxious weeds to exceed eight inches (8") in length.

5. To obtain a land management plan permit, the applicant must submit a written plan identifying the specific area where the plantings or grass or non-noxious weeds are planned to exceed eight inches (8") in length, a statement of intent and purpose for the area, a drawing, plat plan and/or survey showing the location of the planting on the applicant's property, a detailed description of the plant types and plant succession involved, and specific management and maintenance techniques to be employed. The land management plan must include provisions for maintaining plantings at a length not to exceed eight inches (8") in the area between the sidewalk and the street, or a strip not less than fifteen feet (15') adjacent to the street where there is no sidewalk, as well as a strip not less than four feet (4') adjacent to neighboring property lines unless waived in writing by the abutting property owner on the side so affected. Any such waiver of the requirements shall be affixed to the application and plan. No area of City-owned property within any street right-of-way may be included within a land management plan. This shall include the property between the sidewalk and the street and not less than fifteen (15) feet adjacent to the street where there is no sidewalk. As a condition of receiving approval of a land management permit, the

applicant agrees and understands to mow or cut any grass or plantings when ordered to do so by the City official.

6. An application for a land management plan permit shall be on a form provided by the City and shall be submitted to the City Forester. A copy of the application shall be mailed to each of the owners of record, as listed in the office of the City Assessor, who are owners of the property situated in whole or in part within 200 feet of the boundaries of the properties affected. The application and any related information shall be considered by the City Forester. The City Forester shall have authority, after reviewing all appropriate materials and information, to approve or deny the application. An applicant who has had a permit denied or revoked, or an affected property owner in the event a permit is granted, may appeal the decision of the City Forester to the Board of Adjustment. Such appeal must be made in writing within fifteen (15) days of the City Forester's decision and shall be heard at a regular meeting of the Board of Adjustment.

7. An owner or occupant receiving a land management plan permit agrees to maintain any grass or plantings so as not to present hazards or to create a nuisance for adjoining properties, or to persons or vehicles traveling on the public ways. An owner or occupant receiving such permit also agrees to manage and maintain such grass or plantings such that they do not present a hazard to structures on affected land and to maintain such plantings as to enhance the appearance of the property on which they are located.

8. Notwithstanding issuance of a land management plan permit, the City may order the cutting of such grass or plantings included within a land management plan at any time the City determines that the growth may constitute a fire or safety hazard as to cause danger to the safety of the inhabitants of any residential structure located on the premises, or to citizens and residents of the neighborhood. Any costs incurred by the City shall be charged to the owner, occupant, or person in control of the property as authorized under this section.

Source: Ord. 779, Sec. 5 (2006)

15-0306. TREES AND HEDGES AS TRAFFIC HAZARDS- NUISANCES.

1. HEDGE, TREE, OR GROWTH - WHEN A NUISANCE. Any hedge, tree, or growth of any kind or character maintained on any property in the City of West Fargo, so located or of such height as to constitute a traffic hazard by

obstructing the view of the driver of any vehicle upon the streets of the City to the extent that such driver is unable to readily observe the approach of other vehicles on the streets, alleys, and at intersections, or which is likely, because of its location or height, to cause accidents or injury to any person, is hereby declared a nuisance and offense.

2. CHIEF OF POLICE - DUTIES. It shall be the duty of the Chief of Police, whenever it may be called to the attention of his department or any officer or employee thereof, that any hedge, tree, or growth of any kind or character on any property within the City of West Fargo has been so planted or maintained in a place or at a height so as to obstruct the view of the driver of any vehicle on the streets of the City of West Fargo, to the extent that such driver is unable to readily observe the approach of other vehicles on the streets, alleys, and at intersections, or which is likely, because of its location or height to cause accident or injury to any person, to make a thorough inspection of the premises upon and with respect to which such condition is alleged to exist and to make a full and complete report thereof to the Superintendent of Streets.

3. SUPERINTENDENT OF STREETS - DUTIES. If it is the finding of the Superintendent of Streets and the Chief of Police, after review and investigation, that a condition exists with respect to the premises complained against which is dangerous as a traffic hazard and is likely to cause accident or injury to any person, it shall be the duty of the Superintendent of Streets to give or cause to be given notice to the offending person as provided for in Section 15-0312 that such dangerous or hazardous condition exists and that the same is a nuisance and must be abated and eliminated.

15-0307. JUNK, JUNK AUTOMOBILES, BUILDING MATERIALS - STORAGE OR ACCUMULATION CONTRARY TO PUBLIC HEALTH AND WELFARE. It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, upon any private property within the City of West Fargo, 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, and safety and general welfare of the community.

1. UNLAWFUL TO ACCUMULATE ABANDONED VEHICLES AND JUNK. It shall be a nuisance and offense 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 of West Fargo except within

a completely closed 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.

2. UNLAWFUL TO DISMANTLE AUTOMOBILE - EXCEPTION. It shall be a nuisance and offense 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, or junk gatherer.

3. UNLAWFUL TO STORE BUILDING MATERIALS - EXCEPTION. It shall be a nuisance and offense 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 part of the stock in trade of a business located in 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 West Fargo, and unless said construction is completed within a reasonable period of time.

15-0308. ABANDONED AUTOMOBILES -UNCLAIMED PERSONAL PROPERTY - NUISANCE. Any motor vehicle, animal or other article of personal property, located within the City of West Fargo, the use, condition or status of which is in violation of any ordinance of the City of West Fargo, or any law of the State of North Dakota, and constitutes an obstruction, hazard or detriment to public traffic, snow removal operations, public safety or public health, or which may be damaged, disabled or otherwise involved in an accident, or in the commission of any violation of any ordinance of the City of West Fargo or any law of the State of North Dakota, or any vehicle or other article of personal property abandoned or unclaimed within the City of West Fargo, is hereby declared to be a nuisance.

1. REMOVAL AND IMPOUND - CHIEF OF POLICE - DUTY. The Chief of Police or any member of the West Fargo Police Department or any peace officer acting in that capacity within the City limits of the City of West Fargo shall remove or cause to be removed to City Hall, or other place designated by the Chief of Police, any personal property described in the immediately preceding paragraph and may impound and retain the same until the expense of removal, storage and impounding fee, if any, is paid, together with the amount of any fine, costs, bail or other claims of the City of West Fargo against the owner, or any other person lawfully entitled to the possession

thereof the provisions of Section 15-0312 notwithstanding.

2. IMPOUND PROPERTY; WHEN HELD AND SOLD. If not reclaimed and redeemed by the true owner or the person lawfully entitled to the possession thereof within a period of sixty (60) days after impounding, any article or personal property described in the first paragraph of this section may be sold and disposed of by the Police Department of the City of West Fargo in the manner set out in Section 1-0703 of the ordinances of the City of West Fargo.

3. REPORT TO CITY AUDITOR, DISPOSITION OF PROCEEDS. Within thirty (30) days after such sale, the person making the sale shall make our in writing, and file with the City Auditor of West Fargo, a full report of such sale specifying the property sold, the amount received therefor, the amount of costs and expenses, and the disposition made by him of the proceeds of the sale. The proceeds arising from such sale shall be delivered over to the City Treasurer of West Fargo and credited to the General Fund.

15-0309. SNOW AND ICE REMOVAL - SIDEWALKS - NUISANCES. It shall be a nuisance and offense for any person, as owner or occupant of any lot or tenement, to allow snow or ice to accumulate and remain upon any public sidewalk which abuts such lot or tenement.

15-0310. SNOW AND ICE REMOVAL - PUBLIC STREETS - NUISANCES. It shall be a nuisance and offense for any person to allow a motor vehicle or other article of personal property to obstruct, prevent or otherwise hinder the removal of snow and ice from any public street, alley or other roadway customarily used for travel. The provisions of 15-0308 to the extent relevant, shall apply to the removal or abatement of such nuisance.

15-0311. DUMPING - EXCAVATION - NUISANCE.

1. Dumping defined - for purposes of this section, dumping shall mean placing, burying or storing on, underneath or upon any land.

2. Within the City limits of West Fargo it shall be deemed a nuisance for any person to engage in dumping or any landowner, tenant or occupant to permit dumping of hazardous wastes except that hazardous wastes may be stored above ground if that person first obtains a permit from the North Dakota Department of Health pursuant to Chapter 23-20.3, North Dakota Century Code.

3. Within the City limits of West Fargo it should be deemed a nuisance for any person to engage in dumping or any landowner, tenant or occupant to permit the dumping of garbage, junk, demolition materials, trash and rubbish unless the dumping is at a site for which the Board of Adjustment has granted a conditional use or other permit pursuant to the zoning regulations of the City of West Fargo, or unless a permit to use certain material for fill is first obtained from the Building Inspector. It shall not be deemed a nuisance pursuant to this section if the person is in compliance with another section of Chapter 15-02 of the Revised Ordinances of the City of West Fargo allowing the storing of materials under certain circumstances, or if the person is in compliance with the regulations for the storage of garbage contained in Chapter 15-02 of the Revised Ordinances of the City of West Fargo.

Source: Ord. 452, Sec. 1 (1993).

4. Within the City limits of West Fargo it shall be deemed a nuisance for any person to engage in dumping or any landowners, tenants, or occupants to permit the dumping of earth material without first obtaining a permit from the Building Inspector. Provided that no permit is necessary where the quantity of earth material is less than 100 cubic yards and the earth material when placed does not exceed 1 foot in depth. Provided further that no permit is needed when the person has first obtained a building permit and the dumping of earth material is connected with the project for which a building permit was granted.

5. The Police Department of West Fargo is hereby given the authority to prohibit and to stop dumping by any person within the City limits of West Fargo unless and until the person or persons stopped from dumping can establish to the satisfaction of the West Fargo Police Department that such dumping is permitted under the Revised Ordinances of the City of West Fargo. Any person prohibited from dumping by the West Fargo Police Department shall within 24 hours be entitled to a hearing before the Building Inspector, or in his absence, a Municipal Judge of the City of West Fargo to determine whether or not the dumping is in violation of the ordinances of the City of West Fargo.

6. Within the City limits of West Fargo it shall be nuisance if the Building Inspector determines that any existing or future excavation or embankment or cut or fill on private property has become a hazard to life or limb, or endangers property, or adversely affects the safety, use,

or stability of a public way or drainage channel or has a significant adverse impact on the drainage of water along its natural course resulting in the creation of stagnate water or the unnatural accumulation of water upon the property of another.

7. The permit from the Building Inspector authorized by Sections 15-0311(3) and (4) shall not be granted unless the following conditions are met:

   (a) A permit fee in the amount of $25 is paid to the Building Inspector.

   (b) No real estate taxes are delinquent on the real property covered by the application.

   (c) That a drainage plan is provided by the applicant showing the final grade of the real property after the requested dumping and which establishes, to the satisfaction of the City Engineer, that no other property will be adversely affected by the dumping.

   (d) That a bond or a certified check payable to the City is deposited with the City Auditor in an amount set by the City Commission. The bond or certified check shall be for the purpose of cleaning up the site if the conditions of the permit are not followed and if the applicant does not immediately clean up the site. The amount of the bond or certified check shall be based on the City Commission's estimated cost to clean up the site if the conditions of the permit are not followed.

Source: Ord. 452, Sec. 2 (1993).

8. The permit from the Building Inspector authorized by Sections 15-0311(3) and (4) shall set forth the following conditions:

   (a) The site where the dumping may occur.

   (b) What materials may be dumped.

   (c) That the drainage plan be followed.

   (d) That if concrete or similar materials are permitted to be used as fill, the permit shall state the time period in which such materials may remain uncovered.

(e) That the permit shall expire one (1) year after issuance.

(f) Any other condition which the City Commission deems advisable in order to control the dumping.

Source: Ord. 452, Sec. 3 (1993).

15-0312. NOTICE TO REMOVE NUISANCES. Except where otherwise provided in this chapter, if any person within the limits of the City of West Fargo shall permit or suffer on his premises or premises of which he may be the occupant, any nuisance the Board of City Commissioners, any member of the Board of City Commissioners, or such persons authorized by the City Commission shall cause notice to be given such person to remove or abate such nuisance. The notice shall set forth specifically the nuisance to be removed and the period of time in which it must be removed. The time period allowed for abating the nuisance shall not be less than forty-eight (48) hours after notice shall have been given, provided, however, that the time period may be less if the nuisance has caused or may cause death or injury to any person within the City of West Fargo. Provided further, that the provisions of this section shall in no way abrogate or restrict any emergency authority granted to the Board of City Commissioners or other emergency authority delegated to and exercised by persons duly authorized by the Board of City Commissioners.

15-0313. FAILURE TO REMOVE - PROSECUTION. If any person, as owner or occupant of any lot or tenement, after notice as provided in Section 15-0312, neglects or refuses to remove or abate the nuisance, the person giving such notice shall notify the City Attorney, who may commence prosecution of the offense in the West Fargo Municipal Court or seek injunctive relief in any courts of the State of North Dakota.

15-0314. FAILURE TO REMOVE - CIVIL PENALTY. The City official who sent notice of removal or abatement of a nuisance, may, in addition to the remedies set out in the previous section, if the nuisance is not abated within the time period set out in the notice, send notice to the violator of a hearing to be held by the City Commission to determine whether or not City officials should be directed to abate the nuisance. The violator must be given five (5) days written notice of the time of the hearing. If at that hearing the Commission determines that City officials should abate the nuisance, the Commission shall direct employees of the City to do so, and direct that all costs and expenses incurred in that abatement shall be assessed against the property concerned by the City Auditor. Provided, however, if the City official determines that the nuisance presents a clear and present danger of injury or death to a person in West Fargo, that official can direct City officials to abate the nuisance immediately without the need for Commission action. Once each year, after written notice to all

violators, the Board of City Commissioners shall review all such assessments and hear all complaints against the same and approve the assessments as finally determined by the Board of City Commissioners. Such special assessments shall then be certified to the County Auditor and be placed upon the tax roll for that year and to be collected as other taxes. The decision of the City Commission or City official to abate the nuisance in no way relieves the violator of prosecution under the prior section.

15-0315. PENALTY. Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each forty-eight (48) hour period such violation continues shall be considered a separate offense.

15-0316. AUTHORIZED PERSONS. The following persons are hereby authorized by the City Commission to send out notices and take other actions as set out in this chapter to abate nuisances:

1. Any member of the City Commission.

2. City Health Officer.

3. Chief of Police.

4. Superintendent of Streets.

5. Chief of the West Fargo Volunteer Fire Department

6. Building Administrator.

7. City Forester.

Source: Ord. 410, Sec. 3 (1991)

8. Any contracted health officials.

Source: Ord. 779, Sec. 4 (2006)

15-0317. ODOR - NUISANCE.

1. Within the city limits of the City of West Fargo it shall be deemed a nuisance if there is a discharge into the ambient air of any objectionable odorous air contaminant which is in excess of two (2) odor concentration units outside the property boundary from which the emissions are being discharged.

2. A Barnebey-Cheney Scentometer properly maintained, or other instrumental method as approved by the State Health Department, must be used in determination of the intensity of an odor. An odor will be considered

objectionable when at least two inspectors which have been certified by the State Health Department deem that odor objectionable if the odor were present in a place of residence. An "odor concentration unit" means the maximum number of standard units of odor-free air diluting a standard unit of odorous air so that the certified inspector can still detect that objectionable odor in the diluted mixture.

3. No person may discharge into ambient air hydrogen sulfide (H S) in concentrations that would be objectionable on land owned or leased by the complainant or in areas normally assessed by the general public. It shall be deemed a nuisance if two (2) samples with concentrations greater than 0.05 parts per million (50 parts per billion) are sampled at least 15 minutes apart within a 60-minute period. For measuring emissions of hydrogen sulfide, an ambient air analyzer designed for monitoring hydrogen sulfide must be the method used for determining the concentrations of emissions at the point of measurement, or other instrumental methods as approved by the North Dakota State Health Department.

4. The certified inspectors, in operating the Scentometer, an air analyzer designed for monitoring hydrogen sulfide, or other instrument approved by the State Health Department, must follow North Dakota State Health Department guidelines and procedures in conducting such test.

5. For purposes of this section, if a notice to remove or abate a nuisance is given, the odor nuisance will not be deemed to have been abated unless there are no further violations of Section 15-0317 for a period of thirty (30) consecutive days.

Source: Ord. 518, Sec. 1 (1997).

15-0318. NUISANCES ON PARK PROPERTY.

1. No owner, occupant, or user of property abutting Park District property of the West Fargo Park District shall cause or allow water from any down spout, sump pump or similar device to be directly or indirectly deposited on the Park District property.

2. No person shall deposit snow, earth, construction material, or other substance on Park District property of the West Fargo Park District without written permission from the Superintendent of the Park District. Notwithstanding written permission issued by the Park District, no person shall deposit any material containing

salt, sand, or other substances which may be harmful to vegetation or other Park District property.

3. The Superintendent of the West Fargo Park District, or any other Park District employee designated by the Superintendent shall have the authority to issue letters to violators of this section. If the violation is not abated within the time set forth in the Notice of Violation, the City Attorney is authorized to prosecute such offenses in the West Fargo Municipal Court. All other procedures and penalties set forth in this chapter are applicable to this section unless in conflict, in which case this section prevails.

Source: Ord. 609, Sec. 1 (2001)

# CHAPTER 15-04

## SWIMMING AND WADING POOLS

Source: Ord. 603, Sec. 1 (2000); Ord. 800, Sec. 2 (2007)

SECTIONS:


15-0401. Definitions.
15-0402. Regulation by Health Department.
15-0403. Health Department Approval of Construction Plans.
15-0404. Fence/Barrier and Gate Requirements.
15-0405. Bathers with Communicable Diseases.
15-0406. Sanitation of Premises.
15-0407. Cleaning Pool.
15-0408. Inspection by Health Department.
15-0409. Periodic Inspection and Testing by the Health Department.
15-0410. Fees.
15-0411. Licenses.


---

### 15-0401. DEFINITIONS.

1. "Family Pool" shall mean a swimming pool used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it without payment of any fee.

2. "Health Department" shall mean the Heath Department of the City of West Fargo.

3. Permanent Swimming Pool” shall mean any pool with a re-circulation system exceeding two feet (60 centimeters) in depth.

4. "Person" shall mean any person, firm, partnership, association, corporation, company or any organization of any kind.

5. “Public Swimming Pool” shall mean an indoor or outdoor swimming pool, other than a residential pool, which is intended to be used collectively by a number of persons for swimming or bathing and is operated by any person, whether the owner, lessee, operator, licensee, or concessionaire, regardless of whether a fee is charged for such use.

6. “Residential Pool” shall mean an indoor or outdoor swimming pool located on private property under the control of the owner and used or intended to be used solely by the owner, operator or lessee thereof and his

family, and by friends invited to use it without payment of any fee.

7. "Semipublic Pool" shall mean an indoor or outdoor pool or spa on the premises of, or part of, a motel, mobile home park, apartment, condominium, subdivision, club, camp, institution, school or similar establishments where the primary business of the establishment is not the operation of a pool or spa and where admission to the use of the pool or spa is included in the fee, or consideration paid or given for the primary use of the premises to such groups and their invited guests.

8. "Spa" shall mean an indoor or outdoor public pool designed for recreational bathing and/or therapeutic use which is not drained, cleaned, or refilled for each user and which may use high velocity air and/or high velocity water re-circulation systems utilizing hot, cold, or ambient temperature water, including appurtenances used in connection with the spa.

9. "Swimming Pool" shall mean an indoor or outdoor structure, basin, chamber or tank containing an artificial body of water for swimming, diving, wading or recreational bathing or swimming having a depth of two feet (60 centimeters) or more at any point, including all structures, appurtenances, equipment, appliances and other facilities appurtenant to and intended for the operation and maintenance of a swimming pool, and also all swimming pools operated nd maintained in conjunction with or by clubs, city parks, motels, hotels and all semi-public pools operated and maintained in conjunction with or by apartments and community associations.

10. "Wading Pool" shall mean any indoor or outdoor structure, basin, chamber, or tank containing an artificial body of water intended to be used by children for recreational bathing having a water depth of not greater than two feet (60 centimeters) at the deepest point.

15-0402. REGULATION BY HEALTH DEPARTMENT. The Health Department and agents and employees thereof, shall have authority to regulate the public health and safety in the City of West Fargo concerning use, design, operation, and maintenance of swimming and wading pools and shall have such authority to adopt regulations, rules, standards and practices. Such regulations, rules, standards, and practices shall be approved by the Board of City Commissioners, are hereby adopted by reference and fully incorporated herein, including any amendments hereinafter adopted, and shall be controlling within the jurisdiction of the Health Department.

15-0403. HEALTH DEPARTMENT APPROVAL OF CONSTRUCTION PLANS. Before work is commenced on the construction of a public or semi-public swimming pool, or on any alteration, addition, remodeling or other improvement to a swimming pool, the plans and specifications shall have been approved by the Health Department. Residential swimming pools are exempt from this requirement, but must meet fencing requirements and other design standards adopted by the Health Department and approved by the Board of City Commissioners.

15-0404. FENCE/BARRIER AND GATE REQUIREMENTS. A fence or other barrier at least five (5) feet in height shall completely encircle all public, semi-public, and residential outdoor permanent pools. Any fence gate or door shall be equipped such that it can be latched from the inside to prevent access when the pool is unattended.

15-0405. BATHERS WITH COMMUNICABLE DISEASES. No person having any skin eruptions or abrasions, sore or infected eyes, a cold, nasal or ear discharge, or any communicable disease shall be permitted to use a public or semi-public swimming pool. Spitting, spouting water, or blowing the nose in the swimming pool shall be strictly prohibited. The operator of a public or semi-public swimming pool shall post suitable placards embodying such personal regulations and instructions.

15-0406. SANITATION OF PREMISES. The buildings, grounds, dressing rooms and all other swimming pool facilities shall be kept clean and in a sanitary condition and maintained free from garbage, trash or other refuse.

15-0407. CLEANING POOL. Visible dirt on the bottom of public or semi-public swimming pools and visible scum or floating matter on the surface of pools shall be removed at least once daily with an approved type vacuum cleaner or as often as necessary to maintain good sanitary conditions. All public or semi-public swimming pools shall be thoroughly cleansed at least once each week in a manner and by the use of such disinfecting agents or cleansing materials as may be required by the Health Department.

15-0408. INSPECTION BY HEALTH DEPARTMENT. The Health Department may inspect or cause to be inspected all swimming pools and family pools within the City at such times as it may deem necessary to carry out the intent of this ordinance. The Health Department is hereby authorized to enter upon any premises, private or public, to take such samples of water from such pools at such times as it may deem necessary and to require the owner, proprietor or operator to comply with rules and regulations pertaining to swimming pools promulgated by the Health Department, which regulations which have been adopted by the City of Fargo, North Dakota, as may be amended from time to time, are hereby adopted as applicable regulations in the City of West Fargo. In the event of

the failure of compliance after due notice with the rules and regulations and requirements of the Health Department or the requirements of this ordinance, the Health Officer or his designee shall have the power to abate or cause a suspension of the use of such swimming pool or family pool until such time as the same is, in the opinion of the Health Officer or his designee, no longer a menace or a hazard to health, safety or morals.

15-0409. PERIODIC INSPECTION AND TESTING BY THE HEALTH DEPARTMENT. All swimming pools in use shall be sampled and tested at intervals to be determined by the Health Officer or his designee. Said periodic inspections shall include, but are not necessarily limited to, the following tests:

1. Coliform test.
2. Standard plate count.
3. Chlorine residual.
4. Determination of pH.

The allowable limits and frequency of such tests shall be as determined by the Health Department.

15-0410. FEES. The fees for the periodic tests required in Section 15-0409 shall be the same fees set by the Board of City Commissioners of the City of West Fargo.

15-0411. LICENSES. All swimming pools, including spas and whirlpools, except for family pools, must be licensed by the City. The license period shall be on a calendar year with a renewal of license issued each year. The fees shall be set by resolution of the City Commission. The City Auditor shall provide the application forms and issue the licenses upon receipt of application and appropriate license fees.

# CHAPTER 15-05

## SMOKING IN PUBLIC INDOOR WORKPLACES PROHIBITED

Ord. 792, Sec. 1 (2006); Ord. 803, Sec. 1 (2006)

**REPEALED BY ORDINANCE NO. 941, SEC. 1 (2013)**

# CHAPTER 15-06

## SMOKE AND GASSES

Source: Ord. 800, Sec. 3 (2007)

SECTIONS:


15-0601. Dense Smoke, Ash Dust, Soot, Cinders, Noxious Gases, and Paint Spray a Nuisance.
15-0602. Dense Smoke, Ash Dust, Soot, Cinders, Noxious Gases, and Paint Spray Prohibited.
15-0603. Complaints.
15-0604. Investigation.
15-0605. Action to Abate.
15-0606. Penalty for Violation of Chapter.


---

15-0601. DENSE SMOKE, ASH DUST, SOOT, CINDERS, NOXIOUS GASES, AND PAINT SPRAY AS NUISANCE. The emission of dense smoke, ash dust, soot, cinders, or noxious gases from the stack or chimney of any locomotive or similar machine or contrivance or from the smoke stack or chimney of any building or premises or the emission of paint spray from any paint sprayer or similar apparatus in such quantities as to cause injury or detriment to any person or persons or to the pubic, or to endanger the comfort, health, or safety of any such 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.

15-0602. DENSE SMOKE, ASH DUST, SOOT, CINDERS, NOXIOUS GASES, AND PAINT SPRAY PROHIBITED. No person, persons, association, or corporation shall cause, permit, or allow the escape into the open air from any smoke stack, chimney, or paint-spraying apparatus, of such quantities of dense smoke, ash dust, soot, cinders, acid or other fumes, dirt or other material, noxious gases, or paint spray 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.

15-0603. COMPLAINTS. Any person or persons having cause for complaint with respect to the violation of Sections 15-0602 and 15-0603 shall file such complaint, in writing, with the Board of City Commissioners, setting forth the facts in connection therewith, including a description of the premises from which such smoke, ash dust, soot, cinders, noxious gases, or paint spray was allowed to escape and the name of the owner thereof.

15-0604. INVESTIGATION. When any complaint with respect to violation of Sections 15-0601 and 15-0602 has been filed with the

Board of City Commissioners, the same shall be referred to the City Engineer for investigation and, if upon such investigation, the City Engineer shall find the conditions complained of such as to justify said complaint, the Board shall, in writing, by registered mail or by personal service upon such owner, notify the owner of said premises to take such steps as, in the judgment of the Board may be necessary to remedy the same, such order to specify the time limit within which such action must be taken.

15-0605. ACTION TO ABATE. In the event that the owner of said premises fails to remedy offensive conditions within the time limit specified in the order given by the Board of City Commissioners as provided in Section 15-0604, the Board may, in its discretion, require the City Attorney to commence an action to abate said nuisance.

15-0606. PENALTY FOR VIOLATION OF CHAPTER. Any person who shall violate any of the terms and provisions of this chapter and who, when notified in writing by the Board of City Commissioners, shall fail, neglect, or refuse to take steps to correct the condition complained of, and to prevent a repetition thereof, within the time specified in the notice provided for in Section 15-0604, shall be guilty of a misdemeanor and, upon conviction shall be punished by a fine not to exceed $100 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the court, for each such offense; the court to have power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, association, or corporation shall violate any of the provisions of this chapter shall constitute a separate offense.

# CHAPTER 15-07

## FOOD SERVICE ESTABLISHMENTS

Source: Ord. 800, Sec. 3 (2007); Ord. 886, Sec. 1 (2011)

SECTIONS:


15-0701. Definitions
15-0702. Food Service Establishments and Vehicles to be Kept Clean.
15-0703. Inspection of Food Service Establishments.
15-0704. Bakeries, Bars, Restaurants, Groceries, Meat Market, Mobile Units, Temporary Units or Any Other Food Service Establishments - Inspection of Premises - Inspection Fee - Suspension of License.
15-0705. Unwholesome Food, Water, or Other Provisions Not to be Brought Into City.
15-0706. Sale of Meat and Poultry - Regulations.
15-0707. North Dakota Requirements for Food and Beverage Establishments Adopted.


---

15-0701. DEFINITIONS. In this chapter, unless the context otherwise requires,

1. "Adulterated food" shall mean food which bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health or which bears or contains added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established; a food which consists, in whole or in part, of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption; a food which as been processed, prepared, packed or held under unsanitary conditions, whereby it may have become contaminated with filth or rendered injurious to health; a food which is, in whole or in part, the product of a diseased animal, or an animal which had died otherwise than by slaughter; a food which is in a container composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

2. "Beverage" shall mean any liquid for drinking, including alcohol and water.

3. "Commissary" shall mean a catering establishment, restaurant, or any other place in which food, containers, utensils, equipment, or supplies are kept, handled, cleaned, prepared, packaged, and stored, including a service center or base of operations directly from which

catering sites, temporary food units, mobile food units or any other off-premises locations are supplied or services. The term does not include an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

4. "Food" shall mean a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

5. "Food service establishment" shall mean any restaurant, limited restaurant, coffee shop, cafeteria, short-order café, luncheonette, grill, tearoom, sandwich shop, soda fountain, concession stand, tavern, bar, catering kitchen, institutional kitchen, delicatessen, bakery, grocery store, meat market, food processing plant, mobile unit, temporary unit, or any other similar place in which food or drink is prepared for sale or service to the public on the premises or elsewhere with or without charge.

6. "Food processing facility" shall mean a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to the consumer and is operating under a federal or state inspection program.

7. "Limited restaurant" shall mean a food service establishment that is restricted to a specific menu as determined by the Public Health Department or an establishment serving only prepackaged foods, such as frozen pizza and sandwiches, which receive no more than heat treatment and are served directly in the package or on single-service articles.

8. "License" shall mean a written authorization to operate issued by the Public Health Department.

9. "Misbranded" shall mean food, if in packaged form, that lacks a label containing the name and place of business of the manufacturer, packer, or distributor; or an accurate statement of the contents; or if it is offered for sale under the name of another food or if it purports to be or is represented as a food for which a definition and standard identity has been prescribed and it is not.

10. "Mobile food unit" shall mean a vehicle-mounted food service establishment designed to be readily movable.

11. "Prepackaged food" shall mean any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the

manufacturer, and prepared at a facility approved by the Public Health Department.

12. "Primal cut" means a basic major cut into which carcasses and sides of meat are separated, including, but not limited to, a beef round, pork loin, lamb flank, or veal breast.

13. "Proprietor" shall mean the person in charge of a food service establishment, whether as owner, lessee, manager, or agent.

14. "Public Health Department" shall mean Fargo Cass Public Health, or any other entity appointed by the City Commission to act in that capacity, and its authorized representatives.

15. "Restaurant" shall mean every building or other structure, or any part thereof, and all buildings in connection therewith, that are permanently kept, used, maintained, advertised, or held out to the public as a place where meals or lunches are served. The term shall include limited restaurants restricted to a specific menu.

16. "Retail food store/grocery" shall mean any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premises consumption. The term does not include an establishment that handles only prepackaged, non-potentially hazardous foods such as candies and other snack foods, roadside or produce markets that offers only whole, uncut fresh fruits and vegetables for sale, or food and beverage vending machines.

17. "Retail meat market" shall mean a commercial establishment and buildings or structures connected with it used to process, store or display meat or meat products for retail sale to the public for human consumption. The term does not include a meat establishment operating under the federal or state meat inspection program.

18. "Temporary food service establishment" shall mean any food service establishment that operates at a fixed location, approved by the Public Health Department, for not more than 14 consecutive days in conjunction with a single event or celebration. The term does not include a nonprofit, public-spirited organization or person providing a limited type of food service, such as prepackaged, non-potentially hazardous food items.

15-0702. FOOD SERVICE ESTABLISHMENTS AND FOOD SERVICE VEHICLES TO BE KEPT CLEAN. Every person keeping, maintaining, or being in charge of any public or private market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, stall, shop, store, warehouse, storehouse, or wagon, truck, or other vehicle in, on, or about which any meat, fish, oysters, birds or fowls, vegetables, fruit, or other provisions are held, kept, stored, or offered for sale or other disposition shall keep such public or private market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, stall, shop, warehouse, storehouse, or wagon, truck, or other vehicle in a clean, pure, and wholesome condition; and if any such person shall allow or permit the same to be, become, or remain unclean, impure, or unwholesome, he shall be guilty of a violation of this article.

15-0703. INSPECTION OF FOOD SERVICE ESTABLISHMENTS. Every food service establishment shall be inspected by the Public Health Department as often as necessary to determine compliance with this chapter. Frequency of inspections shall be based on a system of risk categorization which involves types of foods served, the preparation steps these foods require, volume of food, population served, and previous compliance history. It shall be the duty of the Public Health Department to visit, as often as required, each public and private market, bakery, stall, shop, store, warehouse, and storehouse in the City and each and all wagons, trucks, or other vehicles of vendors or street hawkers in, at, or about which any meat, fish, oysters, birds or fowls, vegetables, fruit, or other provisions are kept, held, or carried for sale or other disposition as human food and to examine and carefully inspect all such meat, fish, oysters, birds or fowls, vegetables, fruit, or other provisions, and if any adulterated, misbranded, mislabeled, unhealthy, unwholesome, or deleterious meat, fish, oysters, birds, or fowls, vegetables, fruit, or other provisions so intended for sale or other disposition as human food is found in or about any such public or private market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, stall, shop, store, warehouse, or storehouse, or in any wagon, truck, or other vehicle of vendors or street hawkers, the Public Health Department shall at once give the person in charge or temporarily in charge of the same notice to remove at once the same out of said City or to such place as the Public Health Department shall direct or to destroy the same. The person in whose custody and possession the same shall be found to be shall at once remove the same out of the City or to such place as the Public Health Department shall direct or destroy the same as may be directed. The Public Health Department, if deemed advisable, may take possession of such unhealthy, unwholesome meat, fish, oysters, birds, fowls, vegetables, fruit, or other provisions so intended for sale or other disposition as human food and destroy the same at the expense of the person in whose custody such unwholesome provisions are found. Furthermore, based upon inspection findings

or other evidence, the Public Health Department may impound any food that is found to be, or suspected of being, contaminated or adulterated and impound equipment or utensils that are found to be unsanitary or in such disrepair that food, equipment, or utensils may become contaminated or adulterated. No food, equipment, or utensils impounded shall be used unless the impoundment has been released.

15-0704. BAKERIES, BARS, RESTAURANTS, GROCERIES, MEAT MARKET, MOBILE UNITS, TEMPORARY UNITS, OR ANY OTHER FOOD SERVICE ESTABLISHMENTS--INSPECTION OF PREMISES--INSPECTION FEE.--SUSPENSION OF LICENSE. The Public Health Department shall have free access to all bakeries, bars, restaurants, groceries, meat markets, mobile units, temporary units, or any other food service establishment at any reasonable time for purposes of inspection. The Public Health Department may enter, inspect, photograph, and secure any sample, photographs, or other evidence from every bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, for the purpose of enforcing this chapter. A written report of the inspection shall be made and a copy shall be supplied or mailed to the owner, manager, or operator of the food service establishment. If a person or establishment subject to the requirements of this chapter refuses to permit entry or inspection, the taking of samples, photographs, or other evidence or otherwise attempts to conceal samples or evidence, the Public Health Department may obtain an administrative search warrant to obtain the same. All shops, stores, or units as specified in § 15-0701 of this article shall pay an annual license fee in an amount to be established by resolution of the Board of City Commissioners, said fee payable prior to January 1 of each year. A license shall be issued when investigation has determined that the proposed food service establishment and its method of operation will conform to the requirements of this chapter. A license, once issued, is nontransferable. A license shall be valid only for the person, location, type of food sales, or distribution activity approved and, unless suspended or revoked for cause, for the time period indicated. The license shall be posted in a conspicuous place in the food service establishment. Fees shall be sufficient to cover the actual expenses of administering and enforcing this program, including the expenses of inspecting. Whenever the proprietor of a market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment has been convicted of a violation of this chapter and for a period of ten days after the conviction fails to comply with any provision of this chapter, the Public Health Department may suspend or revoke the proprietor’s license. Any license may be suspended or revoked by the Public Health Department for violation of this chapter. Bakeries, bars, restaurants, groceries, meat markets, mobile units, temporary units, and any other food service establishments for which the license has been suspended, shall close and remain closed until the license has been reinstated. Any food service establishment for which the license has been revoked shall close and remain closed

until a new license has been issued. The Public Health Department may suspend any license to operate or direct any food service establishment to close if:

A. Immediate danger to the public health or safety is found, unless the danger is immediately corrected. The Public Health Department may temporarily suspend the license and order the food service establishment immediately closed. Immediate danger to the public health and safety means any condition, based upon inspection findings or other evidence, that can cause food infection, food intoxication, disease transmission, rodent or insect infestation, or hazardous condition, including, but not limited to, unsafe food temperature, sewage contamination, non-potable water supply, or an employee who is a carrier of a communicable disease;

B. Operations, facilities, or equipment in the food service establishment fail to comply with the requirements of this chapter;

C. The operator fails to submit plans as required in this chapter or an inspection indicates that construction or renovation at the facility is not in substantial compliance with the requirements of this chapter;

D. The operator fails to submit a license application for a food service establishment or change of operator;

E. The operator was not granted a license under the requirements of this chapter;

F. The holder of the license does not remit the annual renewal fee;

G. The holder of the license does not comply with the requirements of this chapter; or,

H. Interference with the Public Health Department or its agents and assistants in the performance of its duties has occurred.

When the Public Health Department has suspended a food service establishment license, the person in charge:

A. Shall immediately cease all food service operations;

B. Shall be notified in writing by the Public Health Department that the food service establishment license is immediately suspended upon service of the notice and the suspension shall remain in effect until a hearing with the Public Health Department occurs. If the Public Health Department finds the operation to be in compliance with

the requirements of this chapter, the suspension will be lifted;

C. May request a hearing by filing a written request for a hearing with the Public Health Department within 10 days of receipt of the notice of suspension; and,

D. Shall be notified, if a written request for a hearing is not filed within 10 days, that the suspension is sustain.

Any food service establishment owner whose license has been suspended may, at any time, make written application for a re-inspection for the purpose of reinstatement of the license. The application shall include a statement, signed by the owner, that, in the owner's opinion, the conditions causing the suspension have been corrected. The Public Health Department may, after providing opportunity for a hearing, modify, suspend, or revoke a license for serious or repeated violations of any of the requirements of this chapter or for interference in the performance of the duty of the Public Health Department or its agents and assistants. A license may be reinstated or a new license issued if the Public Health Department determines that conditions which prompted the suspension or revocation no longer exist.

15-0705. UNWHOLESOME FOOD, WATER, OR OTHER PROVISIONS NOT TO BE BROUGHT INTO CITY. No meat, fish, oysters, birds or fowls, vegetables, fruit, water, ice, beverages, or other provisions of any kind not being then healthy, fresh, sound, wholesome, and safe for human food, nor any part of any animal, fish or fowl that died by accident or from disease, shall be brought into the City, or sold, offered, or held for sale at any public or private market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, stall, shop, store, warehouse, and storehouse, or in any other place in the City by any person.

15-0706. SALE OF MEAT AND POULTRY--REGULATIONS. No meat or meat products, poultry or poultry products intended for human consumption shall be sold or offered for sale or service within the City unless slaughtered and processed in a federal or state inspected packing plant, slaughterhouse or by the agency that has animal health jurisdiction; all such meat and meat products and poultry and poultry products must be plainly stamped with a state or federal mark of inspection.

15-0707. NORTH DAKOTA REQUIREMENTS FOR FOOD AND BEVERAGE ESTABLISHMENTS ADOPTED. There is hereby adopted by reference by the Board of City Commissioners, for the purpose of prescribing regulations governing standards, relative to bakeries, bars, meat markets, groceries, restaurants, mobile units, temporary units, or any other food service establishments in the City of West Fargo, that certain Code known as the North Dakota Requirements for Food and Beverage Establishments.

# CHAPTER 15-08

## CHILD CARE CENTERS

Source: Ord. 800, Sec. 3 (2007); Ord. 887, Sec. 1 (2011)

SECTIONS:


15-0801. Definitions
15-0802. Application.
15-0803. Certificate of Occupancy Required.
15-0804. Operation of Child Care Facility - Permit Required.
15-0805. Regulation, Inspection and Enforcement by Public Health Department.
15-0806. Display of Permit - Permit Nontransferable.
15-0807. Application and Fees; Issuance and Expiration fo Permits; and Renewal.
15-0808. Health and Sanitation Requirements.
15-0809. Safety Requirements.


---

15-0801. DEFINITIONS.

1. "Child Care Facility": Any facility where children regularly receive care, maintenance and supervision for 24 hours or less per day, unaccompanied by the child's parent, guardian or custodian, whether the facility is known as a day care home, day care center, or preschool.

2. "Child Day Care Center": A child care facility in which more than 12 children receive care, maintenance and supervision.

3. "Family Child Day Care Home": A child care facility in which seven or less children receive care, maintenance and supervision.

4. "Group Day Care Home": A child care facility in which eight to twelve children receive care, maintenance and supervision.

5. "Public Health Department": Fargo Cass Public Health or other entity appointed by the City Commission to act in that capacity.

6. "Residential Child Care Facility": A child care facility located in a residence operated by the owner of the residence.

15-0802. APPLICATION. All child care facilities shall be subject to the requirements of this article, including applicable provisions of the Land Development Code.

15-0803. CERTIFICATE OF OCCUPANCY REQUIRED. A certificate of occupancy as required by the Revised Ordinances of 1990 of the City of West Fargo shall be obtained prior to the commencement of the operation of any child care facility.

15-0804. OPERATION OF CHILD CARE FACILITY--PERMIT REQUIRED. No person may operate a child care facility within the city limits of West Fargo without a permit issued by the Public Health Department. The permit required by this section shall not be required for a residential child care facility, state licensed preschools and/or school age programs that do not prepare meals.

15-0805. REGULATION, INSPECTION AND ENFORCEMENT BY PUBLIC HEALTH DEPARTMENT. In order to provide for the public health and safety, the Public Health Department shall have authority to regulate and enforce the provisions stated herein concerning the child care facility. The Public Health Department shall have authority to enter upon the premises of a child care facility and to inspect or cause to be inspected all child care facilities as often as is necessary to confirm compliance with the provisions of this article. In the event of a failure to comply with the provisions of this article, after due notice thereof, the Public Health Department shall have the power to abate or cause a suspension of the permit of the child care facility until such time as the same is, in the opinion of the Public Health Department, no longer a hazard to public health or safety.

The City Health Officer is authorized to promulgate regulations creating minimum standards for child care facilities in order to provide for the public health and safety.

15-0806. DISPLAY OF PERMIT--PERMIT NONTRANSFERABLE. A permit issued pursuant to this article shall be displayed in a conspicuous place at the child care facility for which the permit is issued. A permit issued pursuant to this article is non-transferable.

15-0807. APPLICATION AND FEES; ISSUANCE AND EXPIRATION OF PERMITS; AND RENEWAL.

A. Application. An applicant for a permit shall submit an application for a permit to the Public Health Department on a form provided by the Department along with payment of the required permit fee. Permit fees and fees for renewal thereof shall be established by resolution of the Board of City Commissioners. The application must include the name and complete mailing address and street address of the child care facility, a scale drawing and floor plan of the proposed child care facility, and any other information reasonably required by the department for the administration of this section.

B. Issuance of Permits and Expiration. Approved permits shall be issued annually by the City Auditor's office

effective January 1 of each year and shall expire on December 31 of each year.

C. Renewal. Renewal statements will be sent out by the City Auditor's office prior to the beginning of the new year. Permit renewals will be issued by the City effective January 1 of each year.

15-0808. HEALTH AND SANITATION REQUIREMENTS. All child care facilities shall comply with the health and sanitation requirements contained in *Caring For Our Children National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs* 2nd edition, published in 2002, and the following requirements:

A. Food preparation shall be conducted in a kitchen in a sanitary manner with proper equipment and cleaning facilities appropriate to the number of children in the facility, and shall be done in accordance with the Public Health Department Requirements for Food and Beverage Establishments. Bottles and infant food/cereal may be prepared in the classroom as long as:

1. a specific sink designated for food preparation is available;
2. if a second sink in the classroom is not available, water for drinking/eating must be obtained from another sink that is designated for food preparation, and the classroom sink/faucet/handles must be sanitized before using for preparing bottles and infant cereal/food.

B. A specific area shall be designated for diapering.

1. This area shall include a hand sink, designated for hand washing purposes only, diapering supplies and sanitizer at the appropriate concentration.

2. This area shall be used for no other purpose than diapering.

3. The surface of the diapering area shall be nonporous, kept in good repair, and cleaned and sanitized after each use.

4. Diapering procedure shall be posted at each diapering station.

5. A covered receptacle with a step lid shall be provided in the diapering area.

C. Sleeping areas shall include individual cribs/playpens, beds, cots, or mats for each child, with clean linen and bedding.

1. Cots and mats shall be sanitized after each use unless designated to each child, which shall require weekly sanitization. Cots and mats shall be in good repair and shall not be stored in restrooms.

2. Bedding shall be laundered weekly, or more frequently if needed. If shared, bedding shall be laundered after use by each child.

D. Children with temperatures higher than normal or with contagious diseases shall not be permitted to remain at the child care facility. If a child becomes ill while at the child care facility, that child shall be isolated from the rest of the children in attendance but kept under constant supervision, until the child is picked up by a parent or other authorized person.

E. The child care facilities shall have adequate sanitary toilet and lavatory facilities available. The water temperature in sinks available to children shall not be over 120°F.

F. Hand washing shall be required for all staff, volunteers and children.

1. Hand washing shall be done at the following times:

a. Upon arrival for the day or when moving from one child care group to another.

b. Before and after:

(1) Eating, handling/preparing bottles/food, or feeding a child;

(2) Giving medication;

(3) Playing in sensory tables (water, sand, etc) that are used by more than one person.

c. After:

(1) Diapering;

(2) Using the toilet or helping a child use a toilet;

(3) Handling bodily fluid (mucus, blood, vomit), from sneezing, wiping and blowing noses, from mouths, or from sores;

(4) Handling uncooked food, especially raw meat and poultry;

(5) Handling pets and other animals as well as their food/supplies/cages;

(6) Playing in sandboxes or outside;

(7) Cleaning or handling the garbage.

2. Hand washing shall be done at sinks designated for hand washing only. Hand washing sinks shall be accessible at all times and shall have a supply of soap and disposable towels available at all times. Cloth towels are prohibited.

3. Proper hand washing technique shall be used:

a. Wet hands;

b. Apply soap;

c. Rub vigorously (for at least 20 seconds);

d. Rinse hands;

e. Dry hands using disposable towel. Use towel to shut off faucet and open restroom door.

G. The premises and equipment at all child care facilities shall be properly maintained and cleaned as required for the health and protection of the children and staff. Cleaning chemicals shall be stored in an area away from food and inaccessible to children.

H. All exterior building openings shall be properly screened or have other approved means of insect exclusion.

I. Garbage and refuse shall be collected and stored so as to minimize unsanitary conditions which may harbor insects, rodents or other pests. Waste receptacles shall be covered if they contain food or diapers and other items soiled with body fluids. When feasible waste receptacles shall have a step lid. Receptacles must be kept clean and emptied daily.

J. All rooms shall be adequately lighted and ventilated, including corridors, halls, stairs and porches.

15-0809. SAFETY REQUIREMENTS. All child care facilities shall comply with the following safety requirements:

A. Stairs, walkways, ramps and porches shall be maintained free of water, ice or snow and shall have non-slip surfacing. Open stairways shall have gates or doors with latches.

B. Play areas and play equipment shall be maintained in a safe and sanitary condition and shall be supervised by properly trained personnel, pursuant to standards developed by the State of North Dakota.

C. First aid kits shall be located at convenient places in the child care facility. At least one staff member in each "child care center" shall have received certified first aid training. A mobile first aid kit shall be accessible to take outside, in gyms/gross motor rooms, on field trips, etc. A first aid kit shall be kept in each vehicle used to transport children. First aid kits shall be kept out of the reach of children.

D. The child care facility shall be kept free of accumulations of refuse, dilapidated structures, vermin, other health and safety hazards or "attractive nuisances."

E. All furniture, equipment and toys shall be sturdily constructed without sharp points or edges, shall present minimal hazards to children, shall be maintained in good repair, and shall be appropriate to the ages of the children.

# CHAPTER 15-09

## PET STORES

Source: Ord. 800, Sec. 3 (2007); Ord. 888, Sec. 1 (2011)

SECTIONS:


15-0901. Definitions
15-0902. Unlawful to Operate Pet Store Without License - Sale or Display of Colored Birds or Animals Prohibited.
15-0903. License to Operate Pet Store Issued Annually - Fee - Application Form - Health Department to Enforce Regulations.
15-0904. Inspection of Licensed Premises.
15-0905. Cruelty to Pet Birds, Animals, and Fowl Prohibited.
15-0906. Pet Birds or Animals Shall be Provided with Clean and Proper Food and Water.
15-0907. Licenses - Termination, Suspension, Revocation.


---

15-0901. DEFINITIONS. As used in this ordinance, unless the context otherwise indicates, the following definitions shall apply:

A. "Animals" shall include any non-human vertebrate species housed, offered for sale or adoption, or both, in a pet store, including, but not limited to, mammals, birds, reptiles, amphibians, fish, and also invertebrates housed, sold, or adopted as pets, except worms, leeches or the like sold for fishing bait.

B. "Director" shall mean the City Health Officer of the City of West Fargo.

C. "Pet store" shall mean an establishment or market place where animals are bought, sold, exchanged, or offered for sale, in any single calendar year, to the general public with the intent of making a profit. This term includes the keeping for transfer or the transfer of animals at temporary facilities, such as flea markets, mobile facilities, department stores, merchandise outlets, discount outlets, animal shows conducting a sale, and other types of retail outlets where the animals are intended as companions or household animals. The term "pet store" shall not include a person, firm, company or corporation which sells, offers for sale or exchanges less than 25 pet animals in any single calendar year, nor which keeps lost or homeless pet animals for the purpose of locating the existing owner of the pet animals or a new owner and which recoups solely expenses incurred in caring for said pet animal.

D. "Health Department" shall mean Fargo Cass Public Health or other entity appointed by the City Commission to act in that capacity.

15-0902. UNLAWFUL TO OPERATE PET STORE WITHOUT LICENSE - SALE OR DISPLAY OF ARTIFICIALLY COLORED BIRDS OR ANIMALS PROHIBITED. It shall be unlawful to operate a pet store unless a license is first obtained from the City Auditor. No artificially colored birds or animals shall be sold or displayed by any person at any time.

15-0903. LICENSE TO OPERATE PET STORE ISSUED ANNUALLY - FEE - APPLICATION FORM - HEALTH DEPARTMENT TO ENFORCE REGULATIONS. The license mentioned in Section 15-0902 hereof shall be issued annually, January 1, by the Director after an inspection by the City Health Officer or his designee. The fee therefor shall be as established by resolution of the Board of City Commissioners, and the applicants shall fill in and sign an application form furnished by the Director.

The City Health Officer is authorized to promulgate regulations creating minimum standards for pet stores pertaining to the facilities for housing and maintenance of animals, requirements for feeding and watering animals, sanitary conditions for animals, disease control and medical care, record keeping requirements and minimum age requirements of animals to be sold, which regulations may be enforced by the City Health Officer after they are approved by the City Commission.

15-0904. INSPECTION OF LICENSED PREMISES. The members of the Board of City Commissioners of the City of West Fargo, the Chief of Police, or any officer of the Health or Police Department may, at any time, enter upon any licensed premises for the purpose of inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the City.

15-0905. CRUELTY TO ANIMALS PROHIBITED. It shall be unlawful for any person within the City to beat, injure, mistreat, or otherwise abuse inhumanely, unnecessarily, or cruelly any animal.

15-0906. ANIMALS SHALL BE PROVIDED WITH CLEAN AND PROPER FOOD AND WATER. All animals kept for sale or display or any other purpose shall be provided with suitable sanitary housing with clean and proper food and water available at all times.

15-0907. LICENSES - TERMINATION, SUSPENSION, REVOCATION. All licenses issued under the provisions of this article, unless otherwise specifically provided, shall terminate on December 31 following the date of issuance; provided, however, that any license issued under the provisions of this article may, under certain circumstances, be terminated, suspended or revoked by the Director.

A. The Director may, in its discretion, suspend or revoke for cause any license issued under the provisions of this

chapter. The grounds for suspension or revocation shall, among others, include the following:

1. The licensee has filed a petition in bankruptcy.

2. An individual licensee, one of the partners in a partnership licensee, or one of the officers in a corporation or limited liability licensee, or any individual in active management of the licensed business is determined to have violated any of the provisions of this chapter.

3. The licensee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.

4. The licensee has made any false statement in his application for a license.

5. The licensee has violated one or more of the regulations pursuant to Section 15-0903.

B. The grounds enumerated in Subsection A of this section shall not be deemed to be exclusive, and any license issued under the provisions of this chapter may be suspended or revoked by the Director for any other reason deemed by the Director to be sufficient in order to promote and protect the health, safety, and humane treatment of animals in the care of the licensees. When any license is suspended or revoked by the Director pursuant to the provisions of this section, or when the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

C. No license issued under the provisions of this chapter shall be suspended or revoked for cause by the Director without a public hearing. In the event that the Director intends to consider the suspension or revocation of any license for cause, it shall notify the licensee of its intention to consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the licensee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the licensee.

If, upon such hearing, it appears to the Director that sufficient cause exists for the suspension or revocation of a license issued pursuant to the provisions of this

article, the Director shall make its order suspending or revoking the said license.

D. An order suspending or revoking a license issued pursuant to the provision of this chapter may be appealed to the City Commission. The licensee must give notice of its intent to appeal the order of suspension or revocation to the City Commission no later than 15 days following the date of the service of the order upon him.

# CHAPTER 15-10

## REGULATIONS RELATING TO CLEANUP OF CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMP SITES

Source: Ord. 800, Sec. 3 (2007)

SECTIONS:


15-1001. Purpose and Intent.
15-1002. Jurisdiction.
15-1003. Fees.
15-1004. Definitions.
15-1005. Existence of Clandestine Drug Lab Site or Chemical Dump Site - Observation During Law Enforcement Investigation or by Other Officials in Regular Course of Duties.
15-1006. Declaration of Property as a Public Health Nuisance - Order to Vacate the Premises.
15-1007. Issuance of Order to Abate Public Health Nuisance - Notice.
15-1008. Notice of Declaration and Order of Abatement - Notice to Concerned Parties.
15-1009. Site Owner's Right to Appeal.
15-1010. Site Owner's Responsibility to Abate Public Health Nuisance - Required Action.
15-1011. Duty to Notify Health Officer of Prospective Change in Ownership.
15-1012. Site Owner's Responsibility for Costs.
15-1013. Site Owner's Failure to Abate Public Health Nuisance - City's Authority to Abate.
15-1014. Notice Filed with Property Record and/or Motor Vehicle Record.
15-1015. Recovery of Costs by City.
15-1016. Recovery of Costs from Persons Causing Damage.
15-1017. Site Owner and Address.
15-1018. Occupation Prohibited.
15-1019. Removal of Personal Property From the Site.
15-1020. Removal of Posted Declaration of Public Health Nuisance.
15-1021. Health Officer's Authority to Modify or Remove Declaration of Public Health Nuisance or Order for Abatement.
15-1022. Violations and Penalties.


---

15-1001. PURPOSE AND INTENT. The purpose of this chapter is to reduce public exposure to health risks where law enforcement officers or other city officials have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dumpsite may exist. The Board of City Commissioners finds that such sites may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when

exposed through inhabiting or visiting the site, now and in the future.

15-1002. JURISDICTION. This ordinance shall apply to all areas located within the city limits of West Fargo.

15-1003. FEES. Fees for the administration of this chapter may be established and amended periodically by resolution of the Board of City Commissioners.

15-1004. DEFINITIONS. In this chapter, unless the context otherwise requires:

A. "Child" shall mean any person less than 18 years of age.

B. "Chemical dumpsite" shall mean any place or area, including any motor vehicle, trailer or boat, where chemicals or other waste materials used in a clandestine drug lab have been located.

C. "Chemical investigation site" shall mean a clandestine drug lab site that is under notice and order for cleanup and/or remediation as a public health nuisance, as determined by the health officer, or his designee.

D. "Clandestine drug lab" shall mean the unlawful manufacture or attempt to manufacture controlled substances or the possession of equipment and other items commonly used to manufacture controlled substances.

E. "Clandestine drug lab site" shall mean any place or area where law enforcement has determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site may include dwellings, accessory buildings, accessory structures, a chemical dumpsite, any tract of land, or any motor vehicle, trailer or boat where conditions associated with the operation of an unlawful clandestine drug lab exist.

F. "Cleanup" shall mean removal and/or containment of substances hazardous to humans and/or the environment at a chemical investigation site.

G. "Controlled substance" shall mean a drug, substance, or immediate precursor in Schedules I through V as set forth in North Dakota Century Code Chapter 19-03.1. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

H. "Director of Public Health" shall mean the Director of the Public Health Department.

I. "Health Officer" shall mean the local Health Officer for the Public Health Department and his designees.

J. "Household hazardous wastes" shall mean waste generated from a clandestine drug lab. Such wastes shall be treated, stored, transported, or disposed of in a manner consistent with North Dakota Department of Health, North Dakota Department of Environmental Health, Cass County Health rules and regulations.

K. "Law enforcement officer" shall mean any licensed peace officer.

L. "Manufacture, in places other than a pharmacy" shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

M. "Owner" shall mean any person, firm, or corporation who owns, in whole or in part, the land, building, structure, motor vehicle, trailer or boat associated with a clandestine drug lab site or chemical dumpsite.

N. "Public Health Department" shall mean Fargo Cass Public Health, or any name by which that department shall hereinafter be known, and its authorized representatives.

O. "Public health nuisance" shall mean any dwelling, accessory structure, building and/or adjacent property, or motor vehicle, trailer or boat associated with a clandestine drug lab site are create a potential threat to the public health, safety, and welfare of the citizens of West Fargo and hereby declared to be a public health nuisance.

P. "Remediation" shall mean methods such as assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, quarantine, and/or removal of contaminated materials from a chemical investigation site.

Q. "Site" shall mean the location, area, building, motor vehicle, trailer or boat, where items typically associated with a chemical dumpsite, chemical investigative site, or clandestine drug lab are located or found.

R. "Site owner" shall mean any person, firm, or corporation who owns, in whole or in part, the land, building, structure, motor vehicle, trailer or boat associated with a clandestine drug lab site or chemical dumpsite.

S. "Structure" shall mean a dwelling, building, motor vehicle, trailer, boat, ice fishing house, appliance or any other area or location, either fixed or temporary.

15-1005. EXISTENCE OF CLANDESTINE DRUG LAB SITE OR CHEMICAL DUMP SITE - OBSERVATION DURING LAW ENFORCEMENT INVESTIGATION OR BY OTHER CITIES OFFICIALS IN REGULAR COURSE OF DUTIES. Law enforcement officers as part of a criminal investigation or caretaking public service function, or other city officials in the regular course of their duties, who identify or observe conditions associated with a clandestine drug lab site or chemical dump site that places neighbors, visiting public, or present and future occupants of the affected property at risk for exposure to harmful contaminants and other associated conditions, shall notify public health authorities and other pertinent agencies of the site location, property owner if known, and conditions found at the site.

When law enforcement officers or other city officials have completed their work and are prepared to leave the site, they shall post a warning sign on the entrance of the affected part of the structure. In a situation involving a vehicle, such warning sign shall be clearly posted on the vehicle. The warning sign shall be of a size and contain information sufficient to alert visitors or returning occupants to the site that the area is a chemical investigation site, may be dangerous to enter, and must not be entered except by authorization of the Public Health Department, health officer, or law enforcement agency identified on the sign. Upon receiving information related to conditions associated with a clandestine drug lab site or chemical dump site, the Public Health Department shall conduct an appropriate investigation of the site.

15-1006. DECLARATION OF PROPERTY AS A PUBLIC HEALTH NUISANCE - ORDER TO VACATE THE PREMISES. If law enforcement or public health authorities confirm the presence or existence of a clandestine drug lab site or chemical dumpsite, the property shall be deemed a public health nuisance. Following an inspection by the health officer and/or his designee confirming the presence of a clandestine drug lab site or chemical dumpsite, the health officer shall issue a declaration of public health nuisance for the affected site, identifying the site as a public health nuisance and declaring the site as unsafe to occupy. As part of this declaration, the health officer shall have authority to order all occupants of such building, structure, or any part thereof to immediately vacate the premises. A copy of the declaration shall be posted on doorway entrances to the site or, in the case of bare land, in several conspicuous places on the property. In a situation involving a vehicle, a copy of the declaration shall be clearly posted on die vehicle.

The declaration of public health nuisance shall not expire until the property owner completes cleanup and remediation efforts related to the property as provided for in this ordinance.

15-1007. ISSUANCE OF ORDER TO ABATE PUBLIC HEALTH NUISANCE - NOTICE. Upon issuance of a declaration of public health nuisance, the health officer shall issue an order of abatement for the affected site. A copy of the order for abatement shall be posted on all doorway entrances to the site, or in the case of bare land, the order shall be posted in several conspicuous places on the property. In a situation involving a vehicle, a copy of the order for abatement shall be clearly posted on the vehicle. The health officer shall send personal or written notice to the site owner of the order to abate, which shall include the following:

A. A copy of the abatement order;

B. Information about the potentially hazardous condition of the site;

C. Notification of suspension of the site's rental license if applicable;

D. A summary of the site owner's and occupant's responsibilities under this ordinance; and

E. Information that can help the owner locate appropriate services necessary to abate the public health nuisance.

15-1008. NOTICE OF DECLARATION AND ORDER OF ABATEMENT - NOTICE TO CONCERNED PARTIES. The health officer shall notify the owner of the property in person or by mail of the declaration of public health nuisance and order of abatement along with the following parties:

A. Occupants of the property;

B. Neighbors at probable risk;

C. West Fargo Police Department; and

D. North Dakota Department of Health and other State and local authorities which are known to have public and environmental protection responsibilities that are applicable to the situation.

Such notice shall include information related to the following:

A. Property location by street address and other identifiable location;

B. Property owner's and occupant's identities — especially the identities of any children and women of child-bearing age found or known to be associated with the site;

C. Chemicals found and indications of chemical residues; and

D. Presumed duration of the lab.

15-1009. SITE OWNER'S RIGHT TO APPEAL. The site owner may appeal the declaration of public health nuisance and related order for abatement to the Board of City Commissioners. Such appeal must be made in writing and filed with the City Auditor before the deadline when the site owner is otherwise required to submit a cleanup/remediation plan as required under section 15-1010.

15-1010. SITE OWNER'S RESPONSIBILITY TO ABATE PUBLIC HEALTH NUISANCE - REQUIRED ACTION. Within twenty (20) business days of the date the abatement order is mailed or personally served upon the site owner, the site owner shall accomplish the following:

A. Notify the health officer that he has confirmed that all persons and their pets have vacated the site and that the site will remain vacated and secured until the public health nuisance is completely abated as required by this ordinance;

B. Contract with one or more City-approved environmental hazard testing and cleaning firms to conduct the following work according to the most the current North Dakota Department of Health Management Practices for Cleanup of Methamphetamine Labs, or according to standards and regulations as may be adopted by the North Dakota Department of Health:

1. A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;

2. Soil testing of the site and testing of all property and soil in proximity to the site that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;

3. A complete cleanup of the site (including but not limited to the cleanup or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete cleanup of the demolished site;

4. A complete cleanup, or disposal at an approved dumpsite, of all personal property in the site;

5. A complete cleanup of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site;

6. Remediation testing and follow-up testing to determine that all health risks are sufficiently

reduced, according to North Dakota Department of Health Management Practices for Cleanup of Methamphetamine Labs, or according to standards and regulations as may be adopted by the North Dakota Department of Health, to allow safe human occupancy and use of the site and use of the personal property therein.

C. Provide the health officer with the contractor's plan and schedule for remediation;

D. Sign an agreement with the health officer concerning a cleanup and/or remediation schedule. The schedule shall establish reasonable deadlines for completing all actions required by this ordinance for abatement of the public health nuisance. In determining appropriate deadlines, the health officer shall consider practical limitations and the availability of contractors in approving the schedule for cleanup. The health officer may consider practical limitations and the availability of contractors in approving the schedule for cleanup;

E. Provide written documentation of the cleanup process, including a signed, written statement that the property is safe for human occupancy and that the cleanup was conducted according to North Dakota Department of Health Management Practices for Cleanup of Methamphetamine Labs, or according to standards and regulations as may be adopted by the North Dakota Department of Health;

F. The site owner may request an extension of time to consider options for arranging cleanup or removal of the affected parts of the structure. The owner or occupant must show good cause for any such extension. Such extension shall be dependent upon the owner's assurance that the affected parts of the structure will not be occupied pending appropriate cleanup or demolition.

15-1011. DUTY TO NOTIFY HEALTH OFFICER OF PROSPECTIVE CHANGE IN OWNERSHIP. During the time that an order of abatement is in effect for an affected site, the site owner shall inform the health officer of any prospective change in ownership of the affected site.

15-1012. SITE OWNER'S RESPONSIBILITY FOR COSTS. The site owner shall be responsible for all costs associated with nuisance abatement and of cleanup of the site, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site cleanup. Public costs may include, but are not limited to:

A. Posting of the site;

B. Notification of affected parties;

C. Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;

D. Expenses related to the recovery of costs, including the assessment process;

E. Laboratory fees;

F. Cleanup services;

G. Administrative fees; and

H. Other associated costs.

15-1013. SITE OWNER'S FAILURE TO ABATE PUBLIC HEALTH NUISANCE - CITY'S AUTHORITY TO ABATE.

A. If the site owner fails to organize and implement appropriate cleanup and remediation efforts within twenty (20) business days of the date the abatement order is mailed to the site owner, or if the site owner otherwise fails to comply with this ordinance, the health officer is authorized to proceed in a prompt manner and to take all reasonable actions necessary to abate the public health nuisance, including, but not limited to contracting with a City-approved environmental hazard testing and cleaning firm to conduct the work listed in section 15-1009.

B. If the City is unable to locate the property owner within ten (10) days of the declaration of public health nuisance, the City is authorized to proceed in a prompt manner to initiate the onsite assessment and cleanup.

C. If the estimated costs associated with cleanup and remediation of real or personal property at the site exceeds fifty percent (50%) of the County Assessor's market value of the structure and land, the City may exercise its authority under the Revised Ordinances of 1990 of the City of West Fargo, Chapter 5-02.

15-1014. NOTICE FILED WITH PROPERTY RECORD AND/OR MOTOR VEHICLE RECORD.

A. If the site owner fails to organize and implement appropriate cleanup and remediation efforts within twenty (20) business days of the date the abatement order is mailed to the site owner, or if the site owner otherwise fails to comply with this ordinance, the health officer is authorized to provide a copy of the declaration of public health nuisance and abatement order to the County Recorder and to the lien and/or mortgage holders of the affected site to help assure that persons with interest in the site

have access to information about the declaration of public health nuisance.

B. When the affected property is a motor vehicle, boat, or trailer, the health officer is authorized to notify the appropriate state and local agencies that maintain motor vehicle, boat, or trailer records, and the holders of liens or security interests against the vehicle or trailer, of the declaration of public health nuisance and order of abatement.

15-1015. RECOVERY OF COSTS BY CITY. If the City abates the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all of its costs plus an additional 25% of the costs for administration. The City may recover costs by civil action against the owner of the site or by assessing such costs, together with any amendments or modifications thereto.

15-1016. RECOVERY OF COSTS FROM PERSONS CAUSING DAMAGE. No provisions of this ordinance are intended to limit the site owner's, residents' or the City's right to recover costs incurred under this ordinance from either the persons contributing to the public health nuisance, such as the operators of the clandestine drug lab, and/or from other lawful sources.

15-1017. SITE OWNER AND ADDRESS. For purposes of this chapter, when the site is real properly and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the property's taxpayer's name and address as that information is maintained by the County Aauditor's office. When the site is a vehicle, boat or trailer and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the person on file as the owner on the current or most recent title to the vehicle, boat or trailer.

15-1018. OCCUPATION PROHIBITED. It shall be unlawful for any person to occupy, enter, or allow occupancy or entrance to a building or structure declared a public health nuisance until such declaration is vacated or modified. In a situation involving a vehicle, it shall be unlawful for any person to enter or otherwise operate a motor vehicle declared a public health nuisance until such declaration is vacated or modified. This provision does not apply to the health officer, his designees, to law enforcement authorities or other City officials.

15-1019. REMOVAL OF PERSONAL PROPERTY FROM THE SITE. While a declaration of public health nuisance has been posted at the site, no personal property may be removed from the site without prior written consent from the health officer. Consent to remove personal property shall only be granted at the reasonable discretion of the health officer, and only in cases of hardship after:

A. A City-approved environmental hazard testing and cleaning firm has advised the City, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and

B. The owner of the personal property agrees in writing:

1. That the owner is aware of the danger of using the contaminated property;

2. That the owner will thoroughly clean the property to remove all contamination before the property is used; and

3. That the owner releases and agrees to indemnify the City, its staff, and the Board of City Commissioners from all liability to the owner and/or third persons for injuries or damages caused, or alleged to have been caused, by the contaminated property.

15-1020. REMOVAL OF POSTED DECLARATION OF PUBLIC HEALTH NUISANCE. It shall be unlawful for any person, except the health officer or other authorized City personnel, to remove or alter a posted declaration of public health nuisance or an order of abatement from a chemical dumpsite or a clandestine drug lab site.

15-1021. HEALTH OFFICER'S AUTHORITY TO MODIFY OR REMOVE DECLARATION OF PUBLIC HEALTH NUISANCE OR ORDER FOR ABATEMENT. The health officer may modify or remove the declaration of public health nuisance and related order for abatement. Such modification or removal shall only occur after the health officer receives documentation from a City-approved environmental hazard testing and cleaning firm stating that the suspected health and safety risks, including those to neighbors and potential dwelling occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration. In addition, prior to the health officer allowing occupancy of the site or structure, the site owner shall execute a covenant in recordable form identifying the property as a clandestine drug lab site which has been remediated and such covenant shall be recorded in the County Recorder's office. When the declaration or order of abatement is modified or removed, the health officer shall forward that information to the County Recorder to be included in the property record if notice of the nuisance declaration was previously filed with the Recorder as described above. Notice shall also be provided to the motor vehicle or other license records agencies and lien holders if a notice had previously been provided to them.

15-1022. VIOLATIONS AND PENALTIES. Any person violating any provision of this ordinance shall be guilty of a class B misdemeanor and upon conviction shall be subject to the penalties set forth in Section 1-0211 of the Revised Ordinances of 1990 of the City of West Fargo. In addition, the City shall be entitled to seek any other

remedy available at law or in equity in order to protect the health, safety, and welfare of the community, including temporary and permanent injunctions.

# CHAPTER 15-11

## SOFT-SERVE FREEZING/DISPENSING MACHINES

Source: Ord. 800, Sec. 3 (2007)

SECTIONS:

15-1101. Definitions.
15-1102. Sanitizing Machines and Examination of Product.
15-1103. Labeling.
15-1104. License.
15-1105. License Revocation or Suspension.
15-1106. Sale of Nonconforming Products Prohibited.
15-1107. Exemptions.
15-1108. License Fees.

---

### 15-1101. DEFINITIONS.

1. "Commissary" means any place, premise or establishment in which soft-serve freezing/dispensing machines manufacture, store, and sell soft-serve dairy and nondairy frozen dessert products.

2. "Dispensing only machine" means a machine that does not mix or freeze a mixture but which only dispenses a prepackaged ready-to-use soft serve dessert product.

3. "Laboratory" means a biological, physical or chemical laboratory which is under the supervision of the state or local health authority.

4. "License" means a written authorization to operate issued by the Public Health Department.

5. "Manufacturer" means any establishment operating a soft-serve freezing/dispensing machine.

6. "Public Health Department" shall mean Fargo Cass Public Health, or any name by which such department shall be known hereafter, and its authorized representatives.

7. "Soft-serve" means the frozen combination of two or more ingredients used in the manufacture of soft-serve dairy or nondairy dessert products, with or without fruit, fruit juices, candy, nuts, meats, flavoring, or coloring.

8. "Soft-serve freezing/dispensing machine" means any mechanically operated freezing/dispensing machine used to produce a partially frozen dairy or nondairy dessert product combination of two or more of the following: milk or milk products, edible oil or fat, eggs or egg products,

sugar, water, fruit or fruit juices, flavoring, candy, coloring, or stabilizer, and includes, but is not limited to, soft-serve desserts, ices, novelties, or other similar products.

9. "Soft-serve mix" means the unfrozen combination of two or more ingredients used in the manufacture of soft-serve dairy and nondairy dessert products.

15-1102. SANITIZING MACHINES AND EXAMINATION OF PRODUCT. Soft-serve freezing/dispensing machines must be cleaned and sanitized as often as required. Soft-serve dairy and nondairy dessert product shall be sampled yearly by the Public Health Department from each soft-serve freezing/dispensing machine operated by the license holder. Each sample will be submitted to an approved laboratory for bacteriological analysis of its contents.

Fig. 1 BACTERIA AND TEMPERATURE STANDARDS FOR SOFT-SERVE DAIRY/NONDAIRY DESSERTS

| Frozen Desserts | Temperature | Standard Plate Count | Total Coliform |
|---|---|---|---|
| Frozen desserts | 41°F | 50,000/ml | 10/ml |
| Novelties | 41°F | 50,000/ml | 10/ml |
| Soft serve | 41°F | 50,000/ml | 10/ml |

If any of the samples collected from a soft-serve freezing/dispensing machine are not within the standards in Fig. 1 of this section, additional samples will be collected along with an inspection of the equipment to determine the reason, if any, for the violation of the standards. Three consecutive samples which laboratory analysis determines to be not within the standards will result in suspension of the license to operate the soft-serve freezing/dispensing machine.

15-1103. LABELING. All soft-serve dairy/nondairy products that are not sold at the point of manufactured origin must be properly labeled according to the current Food and Drug Administration guidelines.

15-1104. LICENSE. It shall be unlawful for any person who does not possess a valid license from the Public Health Department to sell, store, or offer for sale any soft-serve machine dairy/nondairy dessert product.

15-1105. LICENSE REVOCATION OR SUSPENSION. A license, as required by this chapter, may be suspended by the Public Health Department upon the violation by the holder of any part of this chapter. Any person whose license has been suspended shall

immediately discontinue operation of the soft-serve machine until the defects that caused the suspension have been corrected. Following correction, the applicant may request reinstatement of the license by the Public Health Department.

The Public Health Department may require the license holder to demonstrate proper cleaning procedures and maintenance of the soft-serve freezing/dispensing machine before reinstating the license.

15-1106. SALE OF NONCONFORMING PRODUCTS PROHIBITED. No mix or soft-serve dairy/nondairy dessert shall be sold within the City unless such mix or soft serve dairy/nondairy dessert product has been manufactured and frozen in conformity with the requirements of this chapter. Milk and any milk product that is used in the manufacture of ice cream, frozen dairy dessert, frozen dessert, or sherbet shall be pasteurized. Ice cream mix, frozen dairy dessert mix, and frozen dessert mix are unfrozen products that are used in the manufacture of ice cream, frozen dairy dessert, or frozen dessert. They shall comply with all requirements for ice cream, frozen dairy dessert, or frozen dessert, respectively.

15-1107. EXEMPTIONS. The soft-serve freezing/dispensing machine program is concerned with the manufacture and freezing of soft-serve frozen desserts, including both dairy and nondairy products. The Public Health Department has determined that establishments freezing/dispensing nondairy ice beverage products exclusively, such as water ices, slush, frozen cappuccino, etc., or serving hard hand-dipped ice cream, or dispensing only machines which dispense a prepackaged ready-to-use frozen dessert do not require a soft-serve freezing/dispensing machine license.

15-1108. LICENSE FEES. Any person, firm or corporation that operates a soft-serve freezing/dispensing machine shall pay a yearly license fee in an amount which shall be established by resolution of the Board of City Commissioners. All such fees shall be paid to the City by the person, firm, or corporation licensed to operate a soft-serve freezing/dispensing machine as defined in this ordinance, said fees to be paid before the license is issued.

# CHAPTER 15-12

## HOTELS AND MOTELS

Source: Ord. 885, Sec. 1 (2011)

SECTIONS:


15-1201. Definitions.
15-1202. Health Department.
15-1203. Exterior Area.
15-1204. Public Restrooms and Handwashing Facilities.
15-1205. Guest Rooms.
15-1206. Hallways, Lobbies, Laundry Rooms, and Storage Rooms.
15-1207. Water System.
15-1208. Plumbing.
15-1209. Garbage and Refuse Disposal.
15-1210. Miscellaneous.


---

15-1201. DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of this chapter.

1. Clean – The term "clean" shall mean the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly or extraneous matter.

2. Employee – Any person working in a Hotel or Motel including janitors, maids, porters, and other persons whose duties include the cleaning of rooms, toilets, or other parts of the building.

3. Good repair - The term "good repair" shall mean free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

4. Guest – The term "guest" shall mean an occupant of any hotel or motel.

5. Guest room – The term "guest room" shall mean any room used by a guest for sleeping purposes.

6. Health Department – Means Fargo Cass Public Health or other entity appointed to act in that capacity.

7. Health hazard – Means any chemical agent, source of filth, cause of sickness, or condition that is a health threat to employees or guests.

8. Hotel or Motel – "Hotel or Motel" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place

where sleeping accommodations are furnished to the public for periods of less than one week.

9. Public restroom – Means any facility that provides toilet and handwashing facilities for the general public.

15-1202. HEALTH DEPARTMENT.

1. Regulation by Health Department – The Health Department, and agents and employees thereof, shall have authority to regulate the public health and safety in the City of West Fargo concerning use, design, operation, and maintenance of hotels and motels and shall have such authority to adopt regulations, rules, standards and practices. Such regulations, rules, standards, and practices shall be approved by the Board of City Commissioners, are hereby adopted by reference and fully incorporated herein, included any amendments hereinafter adopted, and shall be controlling within the jurisdiction of the Health Department.

2. Health Department Approval of Construction Plans – Before work is commenced on the construction of a hotel or motel, or any alteration, addition, remodeling, or other improvement the plans and specifications shall have been approved by the Health Department.

3. Inspection by Health Department – The Health Department may inspect or cause to be inspected all hotels and motels within the City at such times as it may deem necessary to carry out the intent of this ordinance. In the event of the failure of compliance after due notice with the rules and regulations and requirements of this ordinance, the Health Department shall have the power to abate or cause a suspension of use of such hotel or motel until such time the Health Department deems there to be no longer a menace or a hazard to health, safety or morals.

15-1203. EXTERIOR AREA.

1. Every building, structure, or enclosure used to provide lodging accommodations for the pubic shall be kept in good repair, and so maintained as to promote the health, comfort, safety, and well being of persons accommodated.

2. There shall be at least one parking spot provided for each lodging room in the hotel or motel and for all staff. The parking lot and all property used in connection with the hotel or motel shall be kept free of litter and refuse. Also, the walking and driving surfaces of all exterior areas shall be surfaced with concrete or asphalt or a similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be

graded to prevent pooling. Only articles necessary for the operation and maintenance of the establishment shall be stored on the premises.

3. Outside openings shall be protected against the entrance of insects and rodents by tight fitting, self closing doors, closed windows, screening or other approved means. Screen doors shall be self closing, and screen for windows, doors, skylights, intake and exhaust air ducts and other openings to the outside shall be tight fitting and free of breaks or holes. Screening materials shall not be less than sixteen mesh to the inch.

15-1204. PUBLIC RESTROOMS AND HANDWASHING FACILITIES.

1. All public restrooms should be provided with mechanical ventilation, self closing doors, and proper handwashing facilities. The handwashing sink shall be equipped with self-dispensing soap and self-dispensing disposable towels or a hand drying device providing heated air and a suitable waste receptacle. Handwashing sinks shall also provide hot and cold water tempered by means of a mixing valve or combination faucet. Hot water shall not exceed one hundred thirty degrees (130° F). Any self-closing, slow closing, or metering faucet shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.

2. Restroom facilities shall be conveniently located and shall be accessible to employees and guests at all times.
3. Handwashing facilities, soap dispensers, hand drying devices and all related fixtures shall be kept clean and in good repair.

4. Walls, and floors in restrooms shall be constructed of smooth easily cleanable materials and shall be kept clean and in good repair.

15-1205. GUEST ROOMS.

1. Walls, and floors in guest rooms shall be constructed of smooth easily cleanable materials and shall be kept clean and in good repair. This includes furniture, drapes, curtains, lamp shades, carpeting and all other fixtures.

2. All beds, bunks, cots, and other sleeping places provided for guests in hotels and motels shall be supplied with suitable pillow slips and top sheets. All bedding including mattresses, quilts, blankets, pillows, sheets, spreads and all bath linen shall be kept clean. No bedding including mattresses, quilts, blankets, pillows, bed and bath linen shall be used which are worn out or unfit for further use. Pillow slips, sheets, and bath linen after

being used by one guest shall be washed before they are used by another guest, a clean set being furnished each succeeding guest. For any guest occupying a guest room for an extended period of time, a fresh set of sheets and pillow slips shall be furnished at least once each week, and at least two clean towels per guest each day if they are requested.

3. Each hotel or motel must provide toilet, handwashing, and bathing facilities for its guests. There must be a ratio of at least 1 toilet and bathing facility for every 8 guests. These facilities must be maintained in good repair and cleaned at least between stays of different guests. All toilet and bathing facilities must also be well ventilated. An area is well ventilated when excessive heat, odors, fumes, vapors, smoke, or condensation is reduced to a negligible level and barely perceptible to the normal senses.

4. All guest rooms must have a heating system able to maintain a minimum temperature of 67°F.

5. The doors of all guest rooms used for sleeping in any hotel or motel shall be equipped with proper bolts or locks to permit the occupants to lock or bolt such doors securely from within the rooms. Such bolts or locks shall be constructed in a manner which will render it impossible to unbolt or unlock the door from the outside.

15-1206. HALLWAYS, LOBBIES, LAUNDRY ROOMS, AND STORAGE ROOMS.

1. Walls, floors, and ceilings in hallways, lobbies, and laundry rooms shall be constructed of smooth easily cleanable materials and shall be kept clean and in good repair.

2. All laundry rooms and any other rooms used to store linen, cribs, roll away beds, food, or food service equipment must shield all lights or use shatterproof bulbs.

15-1207. WATER SYSTEM.

1. A safe adequate supply of potable water with both hot and cold under pressure shall be provided in all bathrooms and toilets.

2. Guest room glasses must be single service or multi-use glasses that are cleaned and sanitized between each different guest.

3. Self-service ice provided for guests must be dispensed through the use of self-dispensing ice machines or prepackaged from an approved source. Self-service ice

storage bins are not acceptable for guest use and must be kept in areas not accessible to guests. All self-dispensing ice machines shall be cleaned internally every quarter (3 months).

15-1208. PLUMBING.

1. All plumbing shall be properly maintained and meet all state and local plumbing codes.

15-1209. GARBAGE AND REFUSE DISPOSAL.

1. All liquid wastes shall be disposed of in an approved public sewage system.

2. Prior to removal, all garbage and refuse in storage shall be kept in watertight, nonabsorbent receptacles which are covered with close fitting lids to prevent access to birds, rodents, and other vermin. These garbage receptacles shall be kept in good repair.

3. All garbage, trash, and refuse shall be removed from the premises frequently to prevent nuisance and unsightly conditions, and shall be disposed of in a sanitary manner.

15-1210. MISCELLANEOUS.

1. All cleaning operations must be conducted in a manner that minimizes contamination of the facility. Cleaning equipment, supplies, insecticides, paints, and other toxic materials must be stored properly. They may not be stored above or next to linens, food, or food service equipment. All cleaners, sanitizers, and disinfectants must comply with 21 CFR Section 178.1010. An ingredient label and "direction for use" label on each chemical being used must be readily available for reference or inspection. All containers used for dispensing these chemicals must be prominently and distinctively labeled for identification of contents.

2. Every hotel and motel shall be constructed, maintained, and equipped to prevent the entrance, harborage, or breeding of flies, roaches, bedbugs, rats, mice, and all other insects and vermin. They must also have means necessary to eliminate such pests such as cleaning, renovation, or fumigation. The Health Department may order the facility to hire a licensed exterminator to exterminate pests when:

   A. The infestation is so extensive that it is unlikely that a nonprofessional can eradicate the pests effectively.

B. The extermination method of choice can only be carried out by a licensed exterminator.

C. Upon reinspection it is found that the establishment has not been brought into compliance with a prior order to rid the establishment of pests.