

CHAPTER 13

HEALTH PROTECTION AND DISEASE PREVENTION

Article	
13-01	Public Health Department, §§ 13-0101 to 13-0105.
13-02	Regulations of the Public Health Department, §§ 13-0201 to 13-0214.
13-03	Control and Regulation of Food Service Establishments, §§ 13-0301 to 13-0306.
13-04	Food Service Establishments, §§ 13-0401.
13-05	Waste, yardwaste, ashes and other waste--Removal and disposal of, §§ 13-0501 to 13-0530
13-06	Rubbish, Ashes, and Wastes Removal--Commercial Haulers--Repealed by Ord. 949 (1955).
13-07	Slaughtering Animals and Processing and Sale of Meat—Repealed by Ord. 4374 (2004).
13-08	Dead Animals, Bones, Carcasses, Furs, and Hides, §§ 13-0801 to 13-0814.
13-09	Regulation of Storage and Accumulation of Junk, Trash, Rubbish, Junk Automobiles, Abandoned Vehicles and Building Materials and of Maintenance of Blighted Structures, §§ 13-0901 to 13-0907.
13-10	Swimming and Wading Pools, §§ 13-1001 to 13-1011.
13-11	Child Care Centers, §§ 13-1101 to 13-1108.
13-12	Pet Shops, §§ 13-1201 to 13-1207.

ARTICLE 13-01

PUBLIC HEALTH DEPARTMENT

Section	
13-0101	Public Health Department--Purpose.
13-0102	Public Health Department--Authority.
13-0103	Director of public health--Appointment.
13-0104	Director of public health--Duties.
13-0105	Notice of Regulations to be given.

13-0101. Public Health Department--Purpose. It is the intent of the city of Fargo that the health of the public be protected and promoted to the greatest extent possible through the public health department while respecting individual rights to dignity, health information privacy, nondiscrimination, due process, and other legally-protected interests.

Source: 1952 Rev. Ord. 13-0101, 1952 Rev. Ord. 13-0102, 1952 Rev. Ord. 13-0103, 4396 (2004).

13-0102. Public Health Department--Authority.--Pursuant to authority granted by the board of city commissioners, the public health department, and designated agents thereof, shall have authority concerning the following:

1. To inquire into all nuisances, sources of filth, and causes of sickness and to abate, remove, or make regulations regarding the same as are necessary for the public health and safety.
2. To isolate, kill, or remove any animal affected with a contagious or infectious disease if the animal poses a material risk to human health and safety.
3. To make and enforce an order in a local matter if an emergency exists.
4. To enter into and examine at any time all buildings, lots and places of any description within its jurisdiction for the purpose of ascertaining the conditions thereof insofar as public health may be affected.
5. To keep records and make reports required by the state department of health.
6. To prepare and submit a public health unit budget.
7. Except in the case of an emergency, to conduct a search or seize material located on private property to ascertain the condition of the property as the condition relates to public health and safety as authorized by an administrative search warrant issued under N.D.C.C. chapter 29-29.1.
8. To supervise any matter relating to preservation of life and health of individuals, including the supervision of any water supply and sewage system.
9. To recommend to the city commission and other governing bodies within the jurisdiction, ordinances for the protection of public health and safety.
10. To make recommendations to the board of city commissioners to employ, or contract with any person to provide the services necessary to carry out the purposes of the public health department.

Nothing in this section shall require an individual or agency within the public health department to provide specific health services or to mandate state and local public health departments or agencies to implement unfunded programs.

Source: 1952 Rev. Ord. 13-0101, 1952 Rev. Ord. 13-0102, 1952 Rev. Ord. 13-0103, 4396 (2004).

13-0103. Director of public health--Appointment.--The board of city commissioners shall appoint a person to serve as Director of Public Health. Such person shall have the qualifications and experience appropriate for the position as determined by the board of city commissioner.

Source: 1952 Rev. Ord. 13-0101, 1952 Rev. Ord. 13-0102, 1952 Rev. Ord. 13-0103, 4396 (2004).

13-0104. Director of public health--Duties.

- A. Within the jurisdiction of the public health department, the director of

public health, pursuant to authority granted by the board of city commissioners, shall:

1. See that the health ordinances of the city, rules and regulations of the board of health, laws and regulations of the state board of health and health laws of the state are fully complied with throughout the jurisdiction.
 2. Establish goals and objectives for the Department to ensure compliance with Board of Health policy directives and all applicable local, state or federal laws, rules and regulations, as well as particular requirements of each grant.
 3. Provide guidance to managers in the development, recommendation and implementation of operating policies and procedures to accomplish departmental goals and objectives.
 4. Maintain and prepare reports and correspondence concerning department activities, contracts with funding sources and, compliance with federal rules and regulations.
 5. Keep a record of the proceedings of the board of health.
 6. Represent the department of public health at board of health, city commission and other meetings concerning the department's programs and policies.
 7. Serves as a liaison of the department and the city with other local community agencies to establish relationships of mutual benefit, promote services and to develop an overall health network for the care of county and city residents.
 8. Have authority to appoint staff to assist with carrying out the mission of the public health department and such persons shall be considered city employees.
- B. Reports to the Board. The director of public health shall, at least quarterly, submit to the board of health a full report summarizing the operations and activities of the public health department. At the end of each official year, the director of public health shall make to the board of health a full and concise statement of the operations and activities of the public health department, including a financial report, along with any special observations or recommendations to improve public health, safety, morals, and welfare of the city.

Source: 1952 Rev. Ord. 13-0101, 1952 Rev. Ord. 13-0102, 1952 Rev. Ord. 13-0103, 4396 (2004).

13-0105. Notice of regulations to be given.--Notice shall be given by the board of city commissioners, pursuant to the laws of the state of North Dakota, of all general orders and regulations made by such board concerning public health matters of the city by publishing the same in some newspaper of general circulation within the city of Fargo, which publication shall be

deemed a legal notice to all persons.

Source: 1952 Rev. Ord. 13-0101, 1952 Rev. Ord. 13-0102, 1952 Rev. Ord. 13-0103, 4396 (2004).

ARTICLE 13-02

REGULATIONS OF THE PUBLIC HEALTH DEPARTMENT

Section

13-0201	Adoption of N.D.C.C. Chapter 23-07.6 by reference.
13-0202	Definitions.
13-0203	Board of health--Mission.
13-0204	Board of health--Membership.
13-0205	Quarantine measures concerning contagious or infectious diseases.
13-0206	Abatement and removal of nuisance, source of filth, and cause of sickness.
13-0207	Destruction or disinfection of articles exposed to infection.
13-0208	Public health department may provide temporary hospital for infected persons.
13-0209	Board of city commissioners may re-establish a detention hospital and purchase necessary property.
13-0210	Health officer--Appointment.
13-0211	Health officer--Authority and duties.
13-0212	Testing for sexually transmitted diseases.
13-0213	Appeal to city commission.
13-0214	Penalty.

13-0201. Adoption of N.D.C.C. Chapter 23-07.6 by reference.--There is hereby adopted by reference by the board of city commissioners, for the purposes of proscribing regulations governing public health and safety in the city of Fargo, more specifically communicable disease and confinement procedures, the provisions of N.D.C.C. chapter 23-07.6 as duly enacted, and the same is hereby adopted and incorporated as fully set out in length therein, including any amendments hereinafter adopted thereto, and from the date on which this ordinance shall take effect, the provision thereof shall be controlling within the jurisdiction of the public health department.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0202. Definitions.--In this chapter, unless the context otherwise requires:

- A. "Board of health" shall mean the city board of health.
- B. "Communicable disease" shall mean a disease or condition that causes

serious illness, serious disability, or death, the infectious agent of which may pass or be carried, directly or indirectly, from the body of one person to the body of another.

- C. “Confinement” shall mean quarantine or isolation.
- D. “Contagious disease” shall mean a reportable condition or disease under N.D.C.C. § 23-07-01.
- E. “Department” shall mean the state department of health.
- F. “Director of public health” shall mean the director or the public health department.
- G. “Essential public health services and functions” shall mean services and functions to:
 - 1. Monitor health status to identify and solve community health problems;
 - 2. Investigate and diagnose health problems and health hazards in the community;
 - 3. Inform, educate, and empower individuals about health issues;
 - 4. Mobilize public and private sector collaboration and action to identify and solve health problems;
 - 5. Develop policies, and plans, and programs that support individual and community health efforts;
 - 6. Enforce laws and regulations that protect health and ensure safety;
 - 7. Link individuals to needed personal health services and assure the provision of health care when otherwise unavailable;
 - 8. Assure a competent public health workforce;
 - 9. Evaluate effectiveness, accessibility, and quality of personal and population-based health services; and
 - 10. Research for new insights and innovative solutions to health problems.
- H. “Governing body” shall mean, as applicable, a city commission, city council, board of county commissioners, or joint board of county commissioners.
- I. “Isolation” shall mean the physical separation and restrictions on movement or travel of an individual or groups of individuals who are infected or reasonably believed to be infected with a contagious or possibly contagious disease from nonisolated individuals, to prevent or limit the transmission of the disease to nonisolated individuals.
- J. “Local board” shall mean the board of health.
- K. “Local health officer” shall mean the health officer of a local board.
- L. “Private sector partner” shall mean non-governmental persons, including community organizations, contractors, educational institutions, health care

facilities, health care providers, health insurers, private businesses, media, nonprofit organizations, and volunteers that provide essential public health services and functions or work to improve public health outcomes in collaboration with a state or local public health agency.

- M. “Public health department” shall mean Fargo Cass Public Health, or any name by which such department shall be hereinafter known, and its authorized representatives.
- N. “Public sector partner” shall mean international, federal, tribal, or other state or local governments and their public health agencies or departments that provide essential public health services and functions or work to improve public health outcomes with a state or local public health agency or department.
- O. “Quarantine” shall mean the physical separation and restrictions on movement or travel of an individual or groups of individuals, who are or may have been exposed to a contagious or possibly contagious disease and who do not show signs or symptoms of a contagious disease, from nonquarantined individuals to prevent or limit the transmission of the disease to nonquarantined individuals.
- P. “Reportable disease” shall mean a disease or condition designated by the state department of health pursuant to N.D.C.C. § 23-07-01.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0203. Board of health--Mission.--The mission of the board of health shall be to act as an advisory board for the public health department and to provide leadership to the public health department as the public health department carries out its functions concerning:

- A. Conditions in which people can be healthy;
- B. Provision of essential public health services and functions (as defined in 13-0203(G) that are culturally and linguistically appropriate for the populations being serviced;
- C. Collaboration among public and private sector partners in the public health system; and
- D. Adequate funding and other sources to provide essential public health services and functions or accomplish public health goals through public or private sources.

The board of health shall also make recommendations to the board of city commissioners for appointment of a local health officer.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207,

1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0204. Board of health--Membership.--The board of health shall have a minimum of five members, which shall be appointed for three (3) year terms. One member of the board of health shall be a current member of the board of city commissioners. Other members of the board of health shall be appointed with such qualifications as shall be determined by the board of city commissioners. In no instance may the board be either all male or all female. Each appointee shall serve until a successor is appointed or qualified, and if a vacancy occurs, the vacancy shall be filled by appointment for the remainder of the unexpired term in the same manner as the initial appointment. Each appointee shall qualify by filing the constitutional oath of office in the office of the city auditor.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0205. Quarantine measures concerning contagious or infectious diseases.--When a case of a contagious or infectious disease exists within the jurisdiction of the public health department, the director of public health shall immediately examine the facts of the case and may implement such quarantine and sanitary measures recommended by the health officer to prevent the spread of such disease. The health officer, or the director of public health acting under the health officer's authority, may immediately cause any person infected with such disease to be removed to a separate house if, in the opinion of the health officer, such person can be removed without danger to that person's health. If the infected person cannot be removed without danger to that person's health, the health officer shall make such quarantine regulations as it deems proper with reference to the house within which such infected person is, and may cause the persons in the neighborhood to be removed, and may take such other measures as it deems necessary for the safety of the inhabitants within its jurisdiction. Such authority and quarantine measures shall comply with N.D.C.C. chapter 23-07.6 (communicable disease confinement procedure.)

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0206. Abatement and removal of nuisance, source of filth, and cause of sickness.--

- A. If necessary for the protection of public health to abate or remove any nuisance, source of filth, or cause of sickness, the public health department shall serve notice on the owner or occupant of the property to remove or abate the nuisance, source of filth, or cause of sickness within a time specified by the public health department not exceeding thirty days. If the owner or occupant fails to comply with the notice to remove or abate or if the nuisance, source of filth, or cause of sickness exists on property of nonresident owners or on property the owners of which cannot be found, the public health department may remove or destroy the nuisance, source of filth, or cause of sickness at the expense of the city or county, which shall charge the expense against the lot, piece, or parcel of land on which the work is done.
- B. The expense of the removal or destruction of a nuisance, source of filth or cause of sickness maybe levied and assessed against the property and the assessment filed in the office of the city auditor. In August of each year, after due notice, the board of city commissioners shall review all such assessments, and hear all complaints against the same, and approve the same as finally adjusted; and such special assessment shall then be certified by the county auditor and be placed upon the tax roll for that year and be colleted as other taxes.
- C. If the health officer or director of public health determines it is necessary for the preservation of public health to enter any building within the jurisdiction of the public health department to examine, destroy, remove, or prevent any nuisance, source of filth, or cause of sickness and is refused entrance into the building, the local health officer, or its authorized agents, may make a complaint under oath to a district judge within the jurisdiction of the public health department stating the facts in the case which the local health officer, or its authorized agents, has knowledge. If a warrant is issued and if requested by the health officer or director of public health, a county sheriff or city police department shall provide assistance to the public health department in any action to search or seize material in or on any private property to destroy, remove, or prevent the nuisance, source of filth, or cause of sickness, if there is probable cause to believe a public health hazard or public health nuisance exists on or in that property, and shall carry out any other preventive measures the public health department requests. For purposes of this subsection, a request from a public health department means a request for assistance which is specific to a public health nuisance and is not a continuous request for assistance.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev.

Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0207. Destruction or disinfection of articles exposed to infection.--The public health department or health officer may cause to be destroyed any bed or bedding, curtains, carpets, or other articles which have been exposed to infection from infectious or contagious disease and may allow reasonable compensation for the same, or may provide a proper place with all the necessary precaution attendant upon the disinfection of such articles, and may provide transportation for the conveyance of such articles.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0208. Public health department may provide temporary hospital for infected persons.—The public health department may provide such temporary hospital or place of reception for persons afflicted with infectious or contagious diseases as it judges best for their accommodation and the safety of its inhabitants. It may provide necessary transportation for the conveyance of such persons to such hospital. All such hospitals, and all private houses or places where exist any infectious or contagious diseases, during the existence of such disease, shall be under the control and subject to the regulations of the board of health. All the inmates of such house or other place, during the existence of such disease therein, must conform to the regulations and obey the instructions of the board of health with reference thereto.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0209. Board of city commissioners may re-establish a detention hospital and purchase necessary property.--The board of city commissioners may, in its discretion, re-establish a city detention hospital, either temporarily or permanently, and purchase or otherwise acquire such real and personal property needed to operate such a detention hospital as, in the judgment of the board of city commissioners, is in the best interest of the city.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0210. Health officer--Appointment.--The board of health shall make recommendations for a local health officer to the board of city commissioners who shall make such appointment pursuant to the Home Rule Charter. The local health officer shall be licensed to practice medicine within this state. The health officer shall serve a term of five years, subject to removal for cause by the board of city commissioners. If the state health officer finds a local health officer is failing to perform the duties of the position, the state health officer may report the case to the board of health or board of city commissioners. The board of city commissioners shall declare the office vacant and may appoint another physician to fill the unexpired term. If the health officer resigns, the board of city commissioners shall declare the office vacant and may appoint another physician to fill the unexpired term.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0211. Health officer--Authority and duties.--

- A. Authority. The health officer may recommend, advise and provide guidance to the board of public health and public health department for the provision of essential public health services and functions. In doing so, the health officer shall maintain an office within the jurisdiction of the public health department and may select and discharge any assistant health officer in the public health department, consistent with any terms of appointment.
- B. Duties. Within the jurisdiction of the board of health, a local health officer:
1. Shall keep a record of the official acts of the local health officer.
 2. Shall enforce every law and rule relating to preservation of life and health of individuals.
 3. May make sanitary inspections of any place within the jurisdiction in which the local health officer finds a probability a health-threatening condition exists.
 4. May investigate public water and ice supplies suspected of contamination and initiate necessary condemnation proceedings.
 5. May enforce school cleanliness; inspect any school that may be overcrowded, poorly ventilated, or unsanitary; and when, necessary, report cases of any unsanitary or unsafe school building to the board of health for investigation.
 6. May take any action necessary for the protection of public health and safety.

7. May determine when confinement and decontamination is necessary for the safety of the public and may establish confinements consistent with procedures provided under N.D.C.C chapter 23-07.6 and perform any acts required for decontamination when necessary.
 8. Shall report any reportable disease to the state department of health as required by law.
 9. May request the assistance of a county sheriff or police department in the same manner as provided under N.D.C.C. § 23-35-09(3).
- C. Reports to board. The health officer shall, at least quarterly, submit to the board of health a report summarizing the activities performed by the health officer.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0212. Testing for sexually transmitted diseases.--The health officer, when necessary for the protection of public health, shall:

- A. Make examination of any person reasonably suspected of being infected with a sexually transmitted disease and detain that person until the results of the examination are known.
- B. Require any person infected with a sexually transmitted disease to report for treatment to a reputable physician and to continue such treatment until cured or, if incurable, continue indefinitely such treatment as recommended by the physician.
- C. Investigate sources of infection of sexually transmitted diseases.
- D. Cooperate with the proper officials whose duty it is to enforce laws directed against prostitution, and otherwise to use every proper means for the repression of prostitution, including providing proper officials with all relevant information available concerning individuals who are infected with the human immunodeficiency virus and who are engaged in prostitution.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

13-0213. Appeal to city commission.—A person affected by action of the board of health, health officer or public health department, and who disagrees with action taken by the board of health, health officer or public health department, such person may appeal to the board of city commissioners by filing a written notice of appeal with the executive secretary of the city commission. Such appeal must be filed within ten (10) days of the specific action taken by the board of health, health officer, or public health department. Upon receipt of such appeal, the city will set a hearing date at a time, not to exceed 30 days from receipt of the notice of appeal at which time the board of city commissioners will hear the appeal.

Source: 1952 Rev. Ord. 13-0201, 1952 Rev. Ord. 13-0202, 1952 Rev. Ord. 13-0203, 1952 Rev. Ord. 13-0204, 1952 Rev. Ord. 13-0205, 1952 Rev. Ord. 13-0206, 1952 Rev. Ord. 13-0207, 1952 Rev. Ord. 13-0208, 1952 Rev. Ord. 13-0209, 1952 Rev. Ord. 13-0210, 1952 Rev. Ord. 13-0211, 1952 Rev. Ord. 13-0212, 1952 Rev. Ord. 13-0213, 1952 Rev. Ord. 13-0214, 1952 Rev. Ord. 13-0215, 1952 Rev. Ord. 13-0216, 1952 Rev. Ord. 13-0217, 1952 Rev. Ord. 13-0218, 2514 (1990), 4397 (2004).

ARTICLE 13-03

CONTROL AND REGULATION OF FOOD SERVICE ESTABLISHMENTS

Section

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|---------|--|
| 13-0301 | Definitions. |
| 13-0302 | Food service establishments and vehicles to be kept clean. |
| 13-0303 | Inspection of food service establishments. |
| 13-0304 | Food service establishments--Inspection of premises-- Inspection fee
--Suspension of license. |
| 13-0305 | Unwholesome food, water, or other provisions not to be brought into
city--Unwholesome and unsafe water defined. |
| 13-0306 | Sale of meat--Regulations. |

13-0301. 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 name by which such department shall be known hereafter, 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, nonpotentially 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, nonpotentially hazardous food items.

Source: 1952 Rev. Ord. 13-0301, 4373 (2004).

13-0302. 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.

Source: 1952 Rev. Ord. 13-0302, 1157 (1963), 4373 (2004).

13-0303. 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.

Source: 1965 Rev. Ord. 13-0303, 1530 (1973), 4373 (2004).

13-0304. 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 § 13-0301 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 1st 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, nonpotable 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.

Source: 1952 Rev. Ord. 13-0304, 952 (1955), 4373 (2004).

13-0305. 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.

Source: 1952 Rev. Ord. 13-0305, 4373 (2004).

13-0306. Sale of meat--Regulations.--No meat or meat products for human consumption shall be sold or offered for sale within the city except such as shall have been slaughtered and processed in a federally inspected packing plant or slaughterhouse or by the agency that has animal health jurisdiction; all such meat and meat products must be plainly stamped with a state or federal inspection stamp.

Source: 1952 Rev. Ord. 13-0306, 4373 (2004).

ARTICLE 13-04

FOOD SERVICE ESTABLISHMENTS

Section

13-0401 North Dakota requirements for food and beverage establishments adopted.

13-0401. 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 Fargo, that certain code known as the North Dakota Requirements for Food and Beverage Establishments recommended and compiled by the North Dakota Department of Health, chapter 33-33-04 of the North Dakota Administrative Code, as well as all other applicable chapters or sections of the North Dakota Century Code and this chapter and the same is hereby adopted and incorporated as fully as if

set out in length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city.

Source: 1965 Rev. Ord. 13-0402, 1888 (1979), 2842 (1998), 4373 (2004).

ARTICLE 13-05

GARBAGE, ASHES, AND OTHER WASTE-- REMOVAL AND DISPOSAL OF

Section	
13-0501	Definition of terms.
13-0502	Statement of purpose.
13-0502.1	Accumulation of wastes in city limits prohibited.
13-0502.2	Unlawful to deposit waste material in containers owned by others.
13-0503	Burning of waste--When permitted--Prohibition.
13-0504	Containers required for waste--Construction-- Capacity--Accessibility--Materials not picked up with garbage.
13-0505	Solid waste manager to enforce ordinance.
13-0506	Solid waste manager authorized to make rules and regulations.
13-0507	Collection by city employees or by contract.
13-0508	Waste contract--Advertising for bids.
13-0509	Awarding of contract--Bond required.
13-0510	Frequency of waste collection--Exceptions.
13-0511	Removal of wastes.
13-0512	Private haulers contracting with city--Application for permit.
13-0513	Private haulers limited to contracts with city--Waivers.
13-0514	Private haulers--Regulation by solid waste operations manager..
13-0515	Private haulers--Suspension or revocation of permit.
13-0516	Unlawful to collect or transport wastes without authority.
13-0517	Vehicles transporting waste to be covered.
13-0518	Fees and charges.
13-0519	Collection of charges for waste collection by water department.
13-0520	Charges for waste collection where water service not provided.
13-0521	Charges for waste collection collected by civil action and assessment.
13-0522	Charges for waste collection payable in all cases--Owners to furnish list of tenants.
13-0523	Waste collection fund established.
13-0524	Solid waste operations manager to inspect premises.
13-0525	Penalty for violation of article.
13-0526	Separability of provisions of article.
13-0527	Written notice to be given city on sale or lease of business.
13-0528	Permits nontransferable--Canceled if business sold.
13-0529	Landfill prohibited wastes.
13-0530	City of Fargo Composting and Recycling Program--Deposit sites and

receptacles--Penalties.

13-0501. Definition of terms.--The following definitions shall apply in the interpretation and enforcement of this ordinance:

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

“Collection” means the act of removing, transporting, and disposing of waste material from the source at which the waste was generated.

“Private Haulers” are any person, firm, or corporation operating as a subcontractor or under contract with the City which are licensed to remove, collect, transport, or dispose of waste within the City.

“Waste” is all garbage, refuse, and trash generated by residences, apartments, rooming and boarding houses, motels, hotels, restaurants, and commercial and retail businesses. The term also includes nonhazardous industrial waste generated from industrial and manufacturing processes, sludges generated by water and wastewater treatment plants, and construction and demolition waste.

“Yardwaste” is all weeds, grass, lawn clippings, vegetable waste and similar organic material gathered from lawns and gardens which is suitable for composting.

Source: 1952 Rev. Ord. 13-0501, 1200 (1965), 2366 (1987), 2600 (1991), 2945 (1998), 3032 (1999).

13-0502. Statement of purpose.--The following provisions are designed to protect the health, welfare and safety of the residents and commercial establishments of the City of Fargo by providing for the organized collection, transportation and disposal of their wastes. This will be accomplished by the City exercising exclusive responsibility over those functions. Within its sole discretion, the City may contract with private parties as necessary or appropriate to accomplish these objectives.

Source: 3032 (1999).

13-0502.1. Accumulation of wastes in city limits prohibited.-- No person or persons, firm, or corporation shall permit or suffer to accumulate in or about any yard, lot, place, or premises, or upon any street or sidewalk adjacent to or abutting upon any lot, block or place, or premises owned and occupied by him or them, or for which he or they may be agent or agents, within the city limits, garbage, manure, ashes or all refuse and rubbish of every description whatsoever, nor suffer such yard, lot, place, or premises to be or remain in such condition.

Source: 1952 Rev. Ord. 13-0502, 1200 (1965), 3032 (1999).

13-0502.2. Unlawful to deposit waste material in containers owned by others.--It shall be unlawful for any person to deposit waste material in a container which is not owned or leased by such person, or in which such person does not have specific authority to deposit such waste material.

Source: 2700 (1994), 3032 (1999).

13-0503. Burning of dry rubbish--When permitted-- Prohibition.--It shall be unlawful to burn garbage or rubbish within the city limits except in an incinerator or other device approved by

the North Dakota Department of Health.

Source: 1952 Rev. Ord. 13-0503, 1200 (1965), 2366 (1987), 3032 (1999).

13-0504. Containers required for garbage--Construction-- Capacity-- Accessibility--Materials not picked up with garbage.-- Materials not picked up with waste.--All waste shall be placed in watertight galvanized metal or plastic containers of not less than 20 gallons or more than 30 gallons net capacity of a design approved by the solid waste operations manager or in disposable containers such as plastic bags or sealed cartons. Containers which are filled so as to weigh over 50 pounds will not be moved or emptied. Containers must be placed on the berm not earlier than 6:00 p.m. on the day prior to the day of collection nor later than 8:00 a.m. on the morning of collection; and shall be removed from the berm not later than 6:00 p.m. on the day of collection. Where there are alleys, containers must be placed at the rear of the property. During the winter months, the area where the containers are placed must be kept clear of snow so that the containers are accessible. During windy conditions, the property owner must take appropriate steps to ensure that the container does not blow away and the city will not be responsible for cans which are lost or damaged as a result of such windy conditions. The following materials will not be picked up by waste trucks: ashes, bricks, concrete pieces, building materials, plaster, sod, animal manure, tree trunks or tree branches except as provided in § 13-0501.

Source: 1952 Rev. Ord. 13-0504, 1200 (1965), 1245 (1967), 2366 (1987), 2457 (1989), 3032 (1999).

13-0505. Solid waste operations manager to enforce ordinance.--The collection, removal, and disposal of wastes in the city shall be under the supervision, direction and control of the solid waste operations manager who, subject to the approval of the board of city commissioners, may appoint a supervisor and such other employees as may be necessary to carry out the provisions of this article pursuant to civil service ordinances and regulations, as well as use the services of private subcontractors as necessary or appropriate.

Source: 1952 Rev. Ord. 13-0505, 1200 (1965), 2366 (1987), 2513 (1990), 3032 (1999).

13-0506. Solid waste operations manager authorized to make rules and regulations.--The solid waste operations manager shall prescribe and publish such reasonable rules and regulations in connection with the preparation, handling and disposition of wastes, as well as the regulation of and contracting with private haulers and subcontractors, as may be necessary to regulate, enforce, and carry out the provisions of this article. He may direct that collection crews shall not collect waste from any premises where the ordinance or laws and said rules and regulations are not complied with, and the failure to collect the same shall not relieve the owner or occupant of the premises from the payment of the fees nor from the enforcement of the penalties of this article as hereinafter set forth.

Source: 1952 Rev. Ord. 13-0506, 1200 (1965), 2513 (1990), 3032 (1999).

13-0507. 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 wastes referred to in § 13-0501 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 hereafter may have, duly contracted as hereinafter provided.

Source: 1952 Rev. Ord. 13-0507, 1200 (1965), 2513 (1990), 3032 (1999).

13-0508. Waste contract--Advertising for bids.-- Except as provided in § 13-0513, if it shall be deemed advisable by the solid waste operations manager, the city auditor may advertise for bids for the collection, transportation or disposal of any or all of the wastes referred to in § 13-0501, under such conditions as the solid waste operations manager may establish. Such notice shall be published twice, once each week in the official newspaper of the city of Fargo. Each bid shall be accompanied by a certified check in the sum of \$500, 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 in § 13-0509 herein. Provided, however, that the requirement for solicitation of bids for any particular project may be waived if the annual cost to the city is \$10,000 or less. The solid waste operations manager may enter into contracts for the collection and disposal of waste not to exceed one year without the need for bid.

Source: 1965 Rev. Ord. 13-0509, 1200 (1965), 1764 (1977), 2513 (1990), 3032 (1999).

13-0509. Awarding of contract--Bond required.-- 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, except as provided as follows: if the solid waste operations manager concludes that acceptance of the lowest responsible bid may result in a disproportionate amount of the service being provided by a single entity, the solid waste operations manager, in that person's sole discretion, may choose to assume responsibility directly by the City, using its own personnel and equipment, for the services required, or to award the contract to the next lowest responsible bidder, under the proviso that the next lowest responsible bidder match the bid submitted by the lowest responsible bidder. The city may enter into long term disposal contracts for the disposal of waste at its landfill, the terms of which may be negotiated by the solid waste operations manager subject to approval by the board of city commissioners. The person, or persons, obtaining such contract from the city shall execute a bond to the city 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.

Source: 1952 Rev. Ord. 13-0509, 1200 (1965), 2513 (1990), 3032 (1999).

13-0510. Frequency of waste collection--Exceptions.-- All waste as herein defined shall be collected as frequently as necessary to maintain and preserve community cleanliness and sanitation, except that this article shall not require the collection of waste where streets and alleys are in a temporary condition which makes it impossible to do so, and the failure to collect such waste shall not relieve the owner or occupant of the premises of the payment of the collection fees hereinafter provided for.

Source: 1952 Rev. Ord. 13-0510, 1200 (1965), 2513 (1990), 3032 (1999).

13-0511. Removal of wastes.--All waste material, except ashes, as herein defined, shall be disposed of under the system established and approved by the solid waste operations manager. All collection, transportation and removal of waste shall be under the direct control and supervision of

the city. The solid waste operations manager, at that person's sole discretion, may contract to have the same collected and removed by a person, firm, or corporation holding a permit from the city.

Source: 1952 Rev. Ord. 13-0511, 1200 (1965), 2513 (1990), 2600 (1991), 2678 (1993), 2945 (1998), 2994 (1999), 3032 (1999).

13-0512. Private haulers contracting with the city--Application for permit.--No person, firm, or corporation shall engage in the business of removing, collecting, transporting, or disposing of the wastes referred to in § 13-0501 for compensation or hire except as a contractor with the city, and without first securing a permit therefor from the city auditor. Application for such permit shall be made to the auditor upon forms provided by him and such application shall contain, among other things, the following information: The name and place of residence of the applicant, a description of the vehicle(s) in which such wastes are to be hauled, and a complete listing of all accounts serviced by the hauler, either directly under the waiver provisions of § 13-0513 or through subcontract with the city.

Source: 1952 Rev. Ord. 13-0512, 1200 (1965), 2366 (1987), 2513 (1990), 2600 (1991), 3032 (1999).

13-0513. Private haulers limited to contracts with City--Waivers.--Upon approval of the application provided for in § 13-0512 and the payment of an annual license fee which shall be established by resolution of the board of city commissioners (payable July 1st of each year) the city auditor shall issue a permit which shall contain the name and address of the licensee. Such permit shall allow the private hauler only to contract with the City for the collection, transportation or disposal of waste in a manner directed by the City (via the solid waste operations manager), and pursuant to the process established in § 13-0508. A private hauler shall not be allowed to contract directly with any person or entity for the collection transportation or disposal of waste, except as may be expressly allowed through formal waiver granted by the solid waste operations manager. The solid waste operations manager is authorized to grant waivers to the provisions of Article 13 to those private haulers whose operations are designed to meet the health, safety and environmental requirements of the city through other contracts with the city that ensure, among other things, proper disposal of the waste. Such waivers shall only be for the term of such other contracts. Yard waste may be deposited at compost collection sites within the city or may be hauled to the city compost site at the landfill in accordance with regulations established by the solid waste operations manager pursuant to § 13-0514 of this article.

Source: 1965 Rev. Ord. 13-0513, 1349 (1970), 1558 (1973), 2366 (1987), 2513 (1990), 2600 (1991), 2623 (1992), 2678 (1993), 2701 (1994), 2945 (1998), 2994 (1999), 3032 (1999).

13-0514. Private haulers--Regulation by solid waste operations manager.--The solid waste operations manager is hereby authorized from time to time to issue regulations governing the type of vehicle used by private haulers, the hours of collection, sanitary provisions, and such other regulations which he may deem necessary to regulate, enforce, and carry out the provisions of this article with regard to private haulers.

Source: 1952 Rev. Ord. 13-0515, 1200 (1965), 2513 (1990), 2600 (1991), 3032 (1999).

13-0515. Private haulers--Suspension or revocation of permit.--A private hauler's permit may be suspended or revoked by the solid waste operations manager for violation of any of the provisions of this article or of any regulations issued by him thereunder, or for breach of the terms of any contract that private hauler has with the city. Revocation shall be effective only upon notice first being given to the holder thereof by registered or certified mail, stating the reasons for such revocation. Such revocation shall become final unless, within five days from the date of mailing 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 within five days thereafter and the decision of the board of city commissioners shall be final.

Source: 1952 Rev. Ord. 13-0516, 1200 (1965), 2513 (1990), 2600 (1991), 3032 (1999).

13-0516. Unlawful to collect or transport wastes without authority.--Except as provided in this article, it shall be unlawful for any person, firm, or corporation or any agent or employee thereof to collect or transport or carry or convey through, along, or upon any public street, alley, or sidewalk within the city any waste, except such persons, firms, or corporations as may be authorized, licensed, or permitted to do so under the provisions of this article.

Source: 1952 Rev. Ord. 13-0517, 1200 (1965), 2366 (1987), 2513 (1990), 2600 (1991), 3032 (1999).

13-0517. Vehicles transporting waste to be covered.--It shall be unlawful for any person, firm or corporation or any agent or employee thereof, to operate or permit the operation of any truck or other vehicle in the hauling of any waste, unless the same be sufficiently enclosed. All trucks or other vehicles and trailers, including vehicles operated or owned by licensed private haulers, shall be covered with a sufficient permanent or temporary covering, which may include canvas, tarpaulin, or other similar covering, designed to contain the waste therein hauled.

Source: 1965 Rev. Ord. 13-0517.1, 1392 (1971), 2513 (1990), 2600 (1991), 3032 (1999).

13-0518. Fees and charges.--For the collection of such waste and the disposal thereof, fees and charges shall be set at the discretion of the solid waste operations manager, provided, however, that said fees and charges may be ratified, modified or set aside by the board of city commissioners at the next regular city commission meeting.

Source: 1965 Rev. Ord. 13-0518, 1271 (1968), 1372 (1970), 1458 (1973), 1659 (1975), 2366 (1987), 2423 (1988), 3032 (1999).

13-0519. Collection of charges for waste collection by water department.--Subject to the waiver provisions of § 13-0513, in all places where water service is provided, the monthly charge for waste removal shall be added to and collected as part of the water bill and collected by the water department of the city but shall be separately stated on said bill. If the solid waste operations manager determines that billing by the water department for waste services for those private haulers granted waivers under § 13-0513 would best meet the goals and objectives of this article, such billing shall also be done by the water department, and that hauler shall be compensated by the city in the provisions set forth in the contract with the private hauler. Waste collections bills shall be due and payable at the same time as the water bill, either monthly or quarterly, as the case may be. If

said charge is not paid when due, the water service to said premises shall be shut off by the water department in the same manner as is now provided for in the case of delinquency of payment of water bills and said service shall not be restored until a payment of \$5.00 is made for services in turning on the water again.

Source: 1952 Rev. Ord. 13-0519, 1200 (1965), 2678 (1993), 3032 (1999).

13-0520. Charges for waste collection where water service not provided.--Except as provided for in § 13-0513 and § 13-0519, in all places where water service is not provided, the charge for waste removal shall be paid to the water department of the city upon quarterly bills from the water department.

Source: 1952 Rev. Ord. 13-0520, 1200 (1965). 3032 (1999).

13-0521. Charges for waste collection collected by civil action and assessment.--If the waste collection charge so established is not paid when due, such sum may be recovered by the city in an action at law against the owner or occupant, or both, of the property served and may be assessed against the premises served in the same manner as is provided by § 11-0805.

Source: 1952 Rev. Ord. 13-0521, 1200 (1965), 3032 (1999).

13-0522. Charges for waste collection payable in all cases--Owners to furnish list of tenants.--No person, firm or corporation within the city shall be permitted to refuse to accept the waste collection and disposal service provided for in this article. The owner or his authorized agent of any multiple dwelling unit shall furnish the city water department and the solid waste operations manager with a complete and accurate list containing the names and addresses of all tenants therein, said list to be submitted by telephone or over the signature of said owner or agent, and it shall be the duty of such owner or agent to advise the city water department and the solid waste operations manager in writing of any changes in tenants within five days of the time when such changes are made. Any person who is a tenant up to the 15th of any month shall be deemed, for purposes of this ordinance, to be a tenant for the entire month.

Source: 1965 Rev. Ord. 13-0522, 1279 (1968), 2678 (1993), 3032 (1999).

13-0523. Waste collection fund established.--The proceeds from waste collection fees and charges shall be placed in a separate fund to be known as the "waste collection fund" and all of the expense of the city for subcontracts with private haulers, and the purchase and maintenance of equipment and in the collection and disposal of said waste shall be paid out of said fund.

Source: 1952 Rev. Ord. 13-0523, 1200 (1965), 3032 (1999).

13-0524. Solid waste operations manager to inspect premises.--The solid waste operations manager or his designated representative shall be charged with the duty of enforcement of this article, shall have the right to enter upon any and all premises at any reasonable time for such enforcement purposes.

Source: 1952 Rev. Ord. 13-0524, 1200 (1965), 2366 (1987), 3032 (1999).

13-0525. Penalty for violation of article--Revocation of license.--Every person, firm,

company, or corporation violating the provisions of this article, shall upon conviction thereof be punished by a fine not to exceed \$500.00, or by imprisonment for not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, company, or corporation shall violate any of the provisions of this article shall constitute a separate offense. The permit of any person, firm, company or corporation who is convicted as hereinabove provided shall be automatically revoked for one year without refund of license fee. A second conviction by any person, firm, company or corporation shall result in the permanent revocation of license.

Source: 1952 Rev. Ord. 13-0525, 1200 (1965), 2366 (1987), 3032 (1999).

13-0526. 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 the said board that if any provisions of this article be declared invalid, all other provisions thereof shall remain valid and enforceable.

Source: 1952 Rev. Ord. 13-0526, 1200 (1965), 3032 (1999).

13-0527. Written notice to be given city on sale or lease of business.--Any waste hauler holding a city waste-hauling permit shall, within three days after the sale or lease of his business, file a written notice with the city auditor containing the name and address of the purchaser and the exact date of the sale or lease.

Source: 1236 (1966), 3032 (1999).

13-0528. Permits nontransferable--Canceled if business sold.--Waste hauler permits and licenses are nontransferable and shall be turned in to and canceled by the city auditor in the event of a sale or lease of the business.

Source: 1236 (1966), 3032 (1999).

13-0529. Landfill prohibited wastes.--It shall be unlawful to dispose of any of the following materials at the City landfill.

1. Hazardous Waste
(other than normal household quantities)
Including:
 - a. Ignitables (solvents, fuels, paints, etc.)
 - b. Corrosives (acids and alkalis)
 - c. Reactives (hypochlorites - swimming pool chemicals, cyanides, etc.)
 - d. Toxicity Characteristic wastes
 - e. Other listed hazardous wastes

2. Industrial Waste
(Nonhazardous waste generated by industrial or manufacturing processes)
MSW Landfills may accept an amount of up to ten percent of the total weight of MSW received per month if the industrial waste is identified in the

industrial waste management procedures contained in the approved operating plan.

3. Lead Acid Batteries
4. Liquids
(other than normal household quantities)
5. Animal Manure
6. Septic Tank Pumpings
7. Tires
8. Major Appliances
(refrigerators, washers, etc.)
9. Municipal Waste Incinerator Ash
10. Pesticide Containers
(other than normal household quantities or triple rinsed and punctured)
11. PCB Waste and PCB Oils
(transformers and capacitors)
12. Sludges
(raw or digested sewage sludges, lime sludges, grit chamber cleanings bar screenings, oil sludges and other sludges unless approved by the NDDH)
13. Regulated Infectious
(other than normal household quantities)
MSW landfills may accept regulated infectious waste from hospitals, nursing homes, etc. If incinerated or autoclaved and sharps rendered “non-sharp” with NDDH approval.
14. Waste Oil
15. Special Waste
(nonhazardous solid wastes generated by energy conversion facilities; crude oil and natural gas exploration and production; mineral and ore mining; beneficiation and extraction; and surface coal mine operations)
16. Other Waste

(toxic or adverse characteristics potentially impacting public health or environmental resources)

Source: 2571 (1991), 3032 (1999).

13-0530. City of Fargo Composting and Recycling Program--Deposit sites and receptacles--Penalties.--It shall be unlawful for any person, corporation, or any agent or employee thereof to place in the compost or deposit sites established by the City any non-compatible trash. Trash and recyclable materials shall be deposited in the appropriate containers and anyone depositing trash in a container not marked or designated for that type of trash or recyclable material shall be guilty of a violation of this section.

Source: 3032 (1999).

ARTICLE 13-06

RUBBISH, ASHES, AND WASTES REMOVAL--COMMERCIAL HAULERS

Note: Article 6 of chapter 13 (sections 13-0601 to 13-0609) of the Revised Code of 1952 was repealed by Ord. No. 949 (1955). For present provisions, see article 13-05.

ARTICLE 13-07

SLAUGHTERING ANIMALS AND PROCESSING AND SALE OF MEAT

Note: Article 13-07 of chapter 13 (Sections 13-0701 to 13-0711) was repealed by Ord. No. 4374 (2004).

Source: Article 13-07 of Chapter 13, Revised Ordinances of 1952 (sections 13-0701 to 13-0711), repealed by Ord. 4374 (2004).

ARTICLE 13-08

DEAD ANIMALS, BONES, CARCASSES, FURS, AND HIDES

Section

- 13-0801 Dead animals, bones, carcasses not to be brought in or stored in city--Exception.
- 13-0802 Requirements of warehouse or storage room where carcasses kept.
- 13-0803 Trucks containing carcasses--Standing on streets over four hours prohibited.
- 13-0804 Trucks containing carcasses--Unloading restrictions.
- 13-0805 Skinning or storing in authorized warehouse required.
- 13-0806 Commercial enterprises to abide by regulations.

- 13-0807 Time during which dead animals and carcasses may be kept.
- 13-0808 Storage and skinning not permitted when prohibited by zoning ordinances.
- 13-0809 Flushing and cleaning floor required.
- 13-0810 Hides and furs not to be cured or stored outside of buildings.
- 13-0811 “Bones” defined--Storage.
- 13-0812 Hide and fur houses or business of storing or skinning animals as public nuisance.
- 13-0813 Repeal of conflicting ordinances.
- 13-0814 Penalty for violation of article.

13-0801. Dead animals, bones, carcasses not to be brought in or stored in city--Exception.--No person, firm, or corporation shall bring into or store within the city any dead animals, bones, or carcasses of dead animals other than such as are suitable and intended for human consumption except in accordance with the provisions listed in this article.

Source: 1952 Rev. Ord. 13-0801, 953 (1955).

13-0802. Requirements of warehouse or storage room where carcasses kept.--No person, firm, or corporation shall be permitted to bring in, keep, or store carcasses of dead animals in the city unless such person, firm, or corporation shall have first provided a warehouse or storage room therefor, which said storage room or warehouse shall be constructed with a concrete floor and finished in such a manner as to make it impervious to moisture, said floor is to be so constructed as to slope from all parts thereof toward a drain or opening in such floor, and such opening or drain must be connected with a sanitary sewer system of the city in a manner and according to the regulations and ordinances of this city governing connections with sanitary sewers. No carcasses shall be at any time stored or kept in or upon any premises in the city other than in such warehouse or storage room so constructed, except that frozen carcasses may be temporarily stored in any fully enclosed room in a warehouse containing a storage room constructed in the manner herein provided, or in any connecting warehouse not equipped with a concrete floor and drain, and any frozen carcasses so stored shall be removed therefrom while they are in a frozen condition. A warehouse or storage room shall, in addition to said construction, be fully enclosed on all sides and covered by a roof and shall be accessible for the delivery of such carcasses or bones through an entrance not opening through or across any street or sidewalk in the city, and provided further, that such storage room or warehouse shall be equipped with ventilators constructed so as to open through the roof or top of said building and no opening or access to said building shall at any time be left or kept so as to permit odors from such storage rooms or warehouse to escape through or across any street or sidewalk in the city, and such storage room or warehouse shall at all times be kept in a clean and sanitary condition.

Source: 1952 Rev. Ord. 13-0802, 953 (1955).

13-0803. Trucks containing carcasses--Standing on streets over four hours prohibited.--No person, firm, or corporation shall permit any trucks, wagons, or other conveyances containing the bodies or carcasses of dead animals other than those animals suitable or intended for human consumption to remain standing on any street, alley or other public way in the city for a period of

more than four hours.

Source: 1952 Rev. Ord. 13-0803, 953 (1955).

13-0804. Trucks containing carcasses--Unloading restrictions.--All trucks, wagons or other conveyances containing the bodies or carcasses of dead animals, not suitable or intended for human consumption, shall be unloaded within four hours after the arrival of such truck, wagon, or other conveyance in the city in the warehouse as defined in § 13-0802, and no such animals or carcasses shall be unloaded across or over any street or sidewalk.

Source: 1952 Rev. Ord. 13-0804, 953 (1955).

13-0805. Skinning or storing in authorized warehouse required.--No person, firm, or corporation shall store or skin any dead animal within the city unless such storage or skinning is done within the warehouse as defined in § 13-0802, and the carcasses of animals skinned shall not be piled on the ground or on any wooden, tile, or other form of floor except a concrete floor as hereinbefore defined and described in this article.

Source: 1952 Rev. Ord. 13-0805, 953 (1955).

13-0806. Commercial enterprises to abide by regulations.--No person, firm, or corporation, while operating a commercial enterprise in the city, shall skin or permit the skinning of dead animals in the city unless such skinning is done in a warehouse and on a floor constructed as defined in § 13-0802.

Source: 1952 Rev. Ord. 13-0806, 953 (1955).

13-0807. Time during which dead animals and carcasses may be kept.--Bodies of dead animals intended for skinning may be kept as hereinbefore provided and before skinning so long as such bodies are solidly frozen and not longer. Frozen bodies may be removed from the place where stored to the place where the skinning is carried on and kept in such skinning room a sufficient length of time to thaw such bodies sufficiently for skinning, and after such animals have been skinned the carcasses thereof shall be removed outside of the corporate limits of the city within 48 hours.

Source: 1952 Rev. Ord. 13-0807, 953 (1955).

13-0808. Storage and skinning not permitted when prohibited by zoning ordinances.--No storage or skinning of dead animals shall be permitted in any portion of the city where such storage and skinning is prohibited by the zoning ordinances of the city, and the storage of either dead animals before skinning or carcasses of skinned animals outside of the buildings hereinbefore described is prohibited.

Source: 1952 Rev. Ord. 13-0808, 953 (1955).

13-0809. Flushing and cleaning floor required.--The floor of a warehouse used for skinning or piling of skinned carcasses of dead animals shall be cleaned at least each day by flushing the same thoroughly with water and such floor shall be thoroughly cleaned.

Source: 1952 Rev. Ord. 13-0809, 953 (1955).

13-0810. Hides and furs not to be cured or stored outside of buildings.--No person, firm, or corporation shall place outside of any buildings any hide, fur, skin, or other portion of the body of any animal for the purpose of storing, drying, or curing the same, and all drying, curing of hides, skins and furs, and any other portion of the body of any animal shall be done inside of a building or warehouse and no such hides, skins, or furs, or other portions of the bodies of dead animals shall be stored outside of a building or warehouse.

Source: 1952 Rev. Ord. 13-0810, 953 (1955).

13-0811. “Bones” defined--Storage.--The word “bones” as used in this article is defined to mean such bones of animals as are clean and free from all flesh, skin, or hair, and the keeping of bones to which are attached any flesh, skin, or hair is hereby prohibited unless such bones are stored and kept in a warehouse constructed in the same manner and with the same floor construction as defined in § 13-0802.

Source: 1952 Rev. Ord. 13-0811, 953 (1955).

13-0812. Hide and fur houses or business of storing or skinning animals as public nuisance.--The operation of hide and fur houses or places of business where animals or the bodies or carcasses of animals are brought into the city for the purpose of storing or skinning such animals is hereby declared to be a public nuisance unless the same be conducted in accordance with the provisions of this article.

Source: 1952 Rev. Ord. 13-0812, 953 (1955).

13-0813. Repeal of conflicting ordinances.--All ordinances or parts of ordinances in conflict with any of the provisions of this article are hereby repealed.

Source: 1952 Rev. Ord. 13-0813, 953 (1955).

13-0814. Penalty for violation of article.--Every person, firm, company, or corporation violating any of the provisions of this article shall, upon conviction thereof, 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; the court to have the power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, company, or corporation shall violate any of the provisions of this article shall constitute a separate offense.

Source: 1952 Rev. Ord. 13-0814, 953 (1955).

ARTICLE 13-09

REGULATION OF STORAGE AND ACCUMULATION OF JUNK,
TRASH, RUBBISH, JUNK AUTOMOBILES, ABANDONED VEHICLES
AND BUILDING MATERIALS AND OF MAINTENANCE
OF BLIGHTED STRUCTURES

Section	
13-0901	Definitions.
13-0902	Storage of junk, junk automobiles, etc.--Contrary to public health and safety.
13-0903	Unlawful to store or accumulate junk, junk automobiles, abandoned vehicles or to abandon vehicles.
13-0904	Unlawful to dismantle automobile except on business premises.
13-0905	Unlawful to maintain blighted structure.
13-0906	Unlawful to store building materials except on business premises.
13-0907	Police department may remove junk automobiles or abandoned vehicles.
13-0908	Appeal to city commission.
13-0909	Junk, junk automobiles and abandoned vehicles--Transfer to other property.
13-0910	Abatement of nuisance--Penalty.

13-0901. Definitions.--The following words or terms when used herein shall be deemed to have the meanings set forth below:

1. The term "junk" shall include, without limitation, trash, rubbish, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal, or any other castoff material of any kind, whether or not the same could be put to any reasonable use.

2. The term "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 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 60 days; provided that there is excepted from this definition unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.

3. The term "abandoned vehicle" shall include, without limitation, any vehicle which has remained on private property for a period of 48 continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of 48 continuous hours or more after the consent of the owner or occupant has been revoked.

4. The term "blighted structure" shall include, without limitation, any dwelling, garage, or outbuilding, or any factory, shop, store, warehouse or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.

5. The term "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 materials used in constructing any structure.

6. The term “person” shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.

7. The terms “trash” and “rubbish” shall include any and all forms of debris and waste material not herein otherwise classified.

Source: 1230 (1966), 2538 (1990).

13-0902. Storage of junk, junk automobiles, etc.--Contrary to public health and safety--Nuisance.--It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, and the maintenance of blighted structures upon any private property within the city of Fargo is a nuisance and tends to result in blighted and deteriorated neighborhoods, the increase in criminal activity, the spread of vermin and disease, and is contrary to the public peace, health, safety and general welfare of the community.

Source: 1230 (1966), 2538 (1990).

13-0903. Unlawful to store or accumulate junk, junk automobiles, abandoned vehicles or to abandon vehicles.--

- A. It shall be unlawful for any person to store, or permit the storage or accumulation of trash, rubbish, junk, junk automobiles or abandoned vehicles on any private property in the city of Fargo except within a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer.
- B. No person shall abandon any vehicle upon a street, highway, alley or other public roadway.
- C. No person shall abandon any vehicle upon any public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.
- D. For purposes of this section, a vehicle shall be presumed to be abandoned if it is left unattended on a highway, alley, or other public roadway, for a period in excess of 48 hours; or on any public or private property without the express or implied consent of the owner or person in lawful possession or control of the property, for a period in excess of 48 hours.
- E. Any police officer who has reasonable grounds to believe that a vehicle has been abandoned may remove the vehicle, or cause it to be removed, at the expense of the owner, to the nearest garage or other place of safety.
- F. In the event a vehicle is not reclaimed by the registered owner or any lienholder within 90 days, the laws of this state governing the disposition of abandoned property shall apply and the property shall be disposed of in

accordance therewith.

Source: 1230 (1966), 1384 (1971), 2538 (1990).

13-0904. Unlawful to dismantle automobile except on business premises.--It shall be unlawful for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same be 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.

Source: 1230 (1966).

13-0905. Unlawful to maintain blighted structure.--It shall be unlawful for any person to keep or maintain any blights or vacant structure, dwelling, garage, outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with a valid building permit issued by the city of Fargo, and unless such construction is completed within a reasonable time.

Source: 1230 (1966).

13-0906. Unlawful to store building materials except on business premises.--It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building or except where such building materials are 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 Fargo, and unless such construction is completed within a reasonable time.

Source: 1230 (1966).

13-0907. City may remove junk, junk automobiles or abandoned vehicles--Notice to property owner.--The city may remove or cause to be removed any junk, junk automobile or abandoned vehicle, or parts of either, from any public or private property after having notified, in writing, the owner or occupant of such property of its intention to do so at least 12 days prior to such removal. Such notice shall identify the property to be removed and the real property upon which it is located and shall state further that if it is not removed by the owner within 12 days, it will be removed by the city and the cost thereof will be assessed against the real property described in the notice. The notice may be served personally upon the owner or occupant of the property; or may be served by regular mail addressed to the same person and to the same address as is designated to receive the real estate tax notice for the property. If service of the notice is by mail, three additional days shall be allowed for mailing time. If such junk or junk automobiles, or parts of either, have not been removed by the owner within the time specified, it shall be removed by the city and disposed of forthwith. If any abandoned vehicles have not been removed by the owner within the time specified, such abandoned vehicles shall be removed and disposed of as provided in § 13-0903 of this article. Such removal by the city shall not excuse or relieve any person of the obligation imposed by this

ordinance to keep his property free from storage or accumulation of junk, junk automobiles or abandoned vehicles, or parts of either, nor from the penalties for violation thereof.

Source: 1230 (1966), 2538 (1990).

13-0908. Appeal to city commission.--In the event the property owner disagrees with the determination of the city and the notice for removal, the property owner may appeal to the board of city commissioners by filing with the executive secretary of the city commission, a notice of appeal, in writing. Such appeal must be filed within ten (10) days of receipt of the notice for removal and before the deadline within which the owner is otherwise required to remove the junk, junk automobile, and/or abandoned vehicle. Upon receipt of such notice, the city will set a hearing date at a time, not to exceed 30 days from receipt of the notice of appeal at which time the board of city commissioners will hear the appeal.

Source: 2538 (1990), 4394 (2004), 4477 (2005).

13-0909. Junk, junk automobiles and abandoned vehicles--Transfer to other property.--In the event that any junk, junk automobiles or abandoned vehicles are identifiable and are moved or transferred from one parcel of real property to another after receipt of the notice provided for in § 13-0907 of this article, a new notice shall not be required and the identifiable junk, junk automobiles or abandoned vehicles may be removed by the city as provided in § 13-0907 of this article and the costs assessed against the property upon which it was located at the time the notice was given.

Source: 2538 (1990).

13-0910. Abatement of nuisance--Penalty.--The cost of removal of any junk, junk automobiles and abandoned vehicles may be assessed against the property where said junk, junk automobiles and abandoned vehicles are located at the time the notice was issued. Such removal and assessment of costs shall not be deemed to be the exclusive remedy of the city. Violation of any of the provisions of this article is an infraction, punishable in accordance with § 1-0301 of the Fargo Municipal Code. Each day of violation shall be deemed to be a separate infraction.

Source: 2538 (1990).

ARTICLE 13-10

SWIMMING AND WADING POOLS

Section

13-1001	Definitions.
13-1002	Regulation by health department
13-1003	Health department approval of construction plans.
13-1004	Fence/barrier and gate requirements
13-1005	Bathers with communicable diseases.
13-1006	Sanitation of premises.
13-1007	Cleaning pool.

- 13-1008 Inspection by health department.
- 13-1009 Periodic inspection and testing by the health department.
- 13-1010 Compliance with requirements of state health department--Repealed.
- 13-1011 Fees.

13-1001. Definitions.--

1. "Health Department" shall mean the health department of the city of Fargo.
2. "Permanent swimming pool" shall mean any pool with a re-circulation system exceeding two feet (60 centimeters) in depth.
3. "Person" shall mean any person, firm, partnership, association, corporation, company, governmental agency, club, or organization of any kind.
4. "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.
5. "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.
6. "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.
7. "Spa" shall mean 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.
8. "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 and 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.
9. "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.

Source: 1344 (1970), 4449 (2005).

13-1002. 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 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.

Source: 1344 (1970), 2735 (1995); 4449 (2005).

13-1003. 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.

Source: 1344 (1970), 4449 (2005).

13-1004. 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.

Source: 1344 (1970), 4449 (2005).

13-1005. 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.

Source: 1344 (1970), 4449 (2005).

13-1006. Sanitation of premises.--The buildings, grounds, dressing rooms and all other areas of public or semi-public swimming pool facilities shall be kept clean and in a sanitary condition and maintained free from garbage, trash and other refuse.

Source: 1344 (1970), 4449 (2005).

13-1007. 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.

Source: 1344 (1970), 4449 (2005).

13-1008. Inspection by health department.--The health department may inspect or cause to be inspected all public or semi-public swimming pools and residential 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 in accordance with this ordinance, and as approved by the board of city commissioners. 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 department shall have the power to abate or cause a suspension of the use of such public or semi-public swimming pool or residential pool until such time as the same is, in the opinion of the health department, no longer a menace or a hazard to health, safety or morals.

Source: 1344 (1970), 4449 (2005).

13-1009. Periodic inspection and testing by the health department.--All public or semi-public swimming pools in use shall be sampled and tested at intervals to be determined by the health department. Said periodic inspections shall include, but are not necessarily limited to, the following tests:

- A. Coliform test
- B. Standard plate count
- C. Chlorine residual
- D. Determination of pH

The allowable limits and frequency of such tests shall be as determined by the health department.

Source: 1344 (1970), 4449 (2005).

13-1010. Compliance with requirements of state health department.—Repealed by Ord. No. 2735 (1995).

Source: 1344 (1970), repealed by Ord No. 2735 (1995), 4449 (2005).

13-1011. Fees.--The fee for the periodic tests required in 13-1009 shall be established by resolution of the board of city commissioners.

Source: 1344 (1970), 2032 (1981), 4449 (2005).

ARTICLE 13-11

CHILD CARE CENTERS

Section	
13-1101	Definitions.
13-1102	Application.
13-1103	Certificate of occupancy required.
13-1104	Health and sanitation requirements.
13-1105	Safety requirements.
13-1106	Family child day care home.--Repealed.

- 13-1107 Group day care home.--Repealed.
13-1108 Child day care center.--Repealed.

13-1101. 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 day nursery.

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.

Source: 2054 (1982), 2986 (1999).

13-1102. Application.--All child care facilities shall be subject to the requirements of this article, including applicable provisions of the Land Development Code.

Source: 2054 (1982), 2986 (1999).

13-1103. Certificate of occupancy required.--A certificate of occupancy as required by § 20-0327 of the Revised Ordinances of 1965 of the city of Fargo shall be obtained prior to the commencement of the operation of any child care facility.

Source: 2054 (1982).

13-1104. Health and sanitation requirements.--All child care facilities shall comply with the following health and sanitation 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.
- B. A specific area shall be designated for diapering.
- C. Sleeping areas shall include individual beds, cots, or mats for each child, with clean linen and bedding.
- D. Children with temperatures higher than normal or with contagious diseases shall not be permitted to remain at the child care facility.
- E. The child care facilities shall have adequate sanitary toilet and lavatory facilities available.
- F. 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.
- G. All exterior building openings shall be properly screened or have other approved means of insect exclusion.
- H. Garbage and refuse shall be collected and stored so as to minimize unsanitary conditions which may harbor insects, rodents or other pests.

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

Source: 2054 (1982).

13-1105. 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.
- 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, and shall present minimal hazards to children; such toys shall be appropriate to the ages of the children.

Source: 2054 (1982).

13-1106. Family child day care home--Additional requirements.--

Source: 2054 (1982), 2101 (1983), 2331 (1987), 2986 (1999), repealed by Ord. No. 4414 (2004).

13-1107. Group day care home--Additional requirements.--

Source: 2054 (1982), 2101 (1983), 2331 (1987), 2986 (1999), repealed by Ord. No. 4414 (2004).

13-1108. Child day care center--Additional requirements.--

Source: 2054 (1982), 2101 (1983), 2331 (1987), 2986 (1999), 4101 (2001), repealed by Ord. No. 4414 (2004).

ARTICLE 13-12

PET SHOPS

- 13-1201 Definitions.
- 13-1202 Unlawful to operate pet shop without license--Sale or display of colored birds or animals prohibited.
- 13-1203 License to operate pet shop issued annually--Fee--Application form--Health department to enforce regulations.
- 13-1204 Inspection of licensed premises.
- 13-1205 Cruelty to pet birds, animals, and fowl prohibited.
- 13-1206 Pet birds or animals shall be provided with clean and proper food and water.
- 13-1207 Licenses--Termination, suspension, revocation.

13-1201. Definitions.--As used in this ordinance, unless the context otherwise indicates, the following definitions shall apply:

- A. "Pet animals" shall include any species of animals, except fish and except worms, leeches or the like sold for fishing bait.
- B. "Pet shop" shall mean any person, firm, company or corporation maintained separately or in connection with another commercial enterprise which keeps, handles, breeds, sells, offers for sale, or exchanges pet animals for the purpose of wholesale or retail sale. The term "pet shop" 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.

Source: 2824 (1997).

13-1202. Unlawful to operate pet shop without license--Sale or display of artificially colored birds or animals prohibited.--It shall be unlawful to operate a pet shop 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.

Source: 2824 (1997).

13-1203. License to operate pet shop issued annually--Fee--Application form--Health department to enforce regulations.--The license mentioned in § 13-1202 hereof shall be issued annually, January 1st, by the city auditor 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 applicants shall fill in and sign an application form furnished by the city auditor.

The city health officer is authorized to promulgate regulations creating minimum standards for pet shops 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, notice of which is given pursuant to the provisions of § 13-0101 of the Fargo Municipal Code.

Source: 2824 (1997).

13-1204. Inspection of licensed premises.--The members of the board of city commissioners of the city of 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 police inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the city.

Source: 2824 (1997).

13-1205. Cruelty to pet birds, animals, and fowl prohibited.--It shall be unlawful for any person within the city to beat, injure, mistreat, or otherwise abuse inhumanely, unnecessarily, or cruelly any baby chicks, ducklings, canaries, parakeets, rabbits, or other pet birds or animals.

Source: 2824 (1997).

13-1206. Pet birds or animals shall be provided with clean and proper food and water.--All pet birds or 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.

Source: 2824 (1997).

13-1207. Licenses--Termination, suspension, revocation.--All licenses issued under the provisions of this article, unless otherwise specifically provided, shall terminate on December 31st 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 commission.

- A. The commission may, in its discretion, suspend or revoke for cause any license issued under the provisions of this article. 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 licensee, or any individual in active management of the licensed business is convicted of violating any of the provisions of this article.
 - 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 created pursuant to § 13-1203.
- 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 article may be suspended or revoked by the commission for any other reason deemed by the commission 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 commission 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 article shall be suspended or revoked for cause by the commission without a public hearing. In the event that the commission intends to consider the suspension or revocation of any license for cause, it shall direct the city auditor to 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 commission that sufficient cause exists for the suspension or revocation of a license issued pursuant to the provisions of this article, the commission shall make its order suspending or revoking the said license.

Source: 2824 (1997).

ARTICLE 13-13

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

Section

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|---------|--|
| 13-1301 | Purpose and Intent. |
| 13-1302 | Jurisdiction. |
| 13-1303 | Fees. |
| 13-1304 | Definitions. |
| 13-1305 | 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. |
| 13-1306 | Declaration of property as a public health nuisance--Order to vacate the premises. |
| 13-1307 | Issuance of order to abate public health nuisance--Notice. |
| 13-1308 | Notice of declaration and order of abatement--Notice to concerned parties. |
| 13-1309 | Site owner's right to appeal. |

- 13-1310 Site owner's responsibility to abate public health nuisance--Required action.
- 13-1311 Duty to notify health officer of prospective change in ownership.
- 13-1312 Site owner's responsibility for costs.
- 13-1313 Site owner's failure to abate public health nuisance--City's authority to abate.
- 13-1314 Notice filed with property record and/or motor vehicle record.
- 13-1315 Recovery of costs by city.
- 13-1316 Recovery of costs from persons causing damage.
- 13-1317 Site owner and address.
- 13-1318 Occupation prohibited.
- 13-1319 Removal of personal property from the site.
- 13-1320 Removal of posted declaration of public health nuisance.
- 13-1321 Health officer's authority to modify or remove declaration of public health nuisance or order for abatement.
- 13-1322 Violations and penalties.

13-1301. Purpose and Intent.--The purpose of this article 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.

Source: 4499 (2005).

13-1302. Jurisdiction.--This ordinance shall apply to all areas located within the city limits of Fargo.

Source: 4499 (2005).

13-1303. Fees.--Fees for the administration of this article may be established and amended periodically by resolution of the board of city commissioners.

Source: 4499 (2005).

13-1304. 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 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.

Source: 4499 (2005).

13-1305. 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.

Source: 4499 (2005).

13-1306. 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 the 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.

Source: 4499 (2005).

13-1307. 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 give 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.

Source: 4499 (2005).

13-1308. 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. 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.

Source: 4499 (2005).

13-1309. 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 executive secretary of the city commission before the deadline when the site owner is otherwise required to submit a cleanup/remediation

plan as required under section 13-1310.

Source: 4499 (2005).

13-1310. 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.

Source: 4499 (2005).

13-1311. 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.

Source: 4499 (2005).

13-1312. 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.

Source: 4499 (2005).

13-1313. 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 13-1309.
- 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 Fargo Municipal Code Article 21-04.

Source: 4499 (2005).

13-1314. 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 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.

Source: 4499 (2005).

13-1315. Recovery of costs by city.--

- A. Assessment of costs. 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 pursuant to North Dakota Century Code section 23-35-09(2) together with any amendments or modifications thereto.
- B. Notice of costs. The member of the governing body who is responsible for streets shall return and file the assessment in the office of the city auditor. The auditor shall publish, in the same manner as provided under

section 40-22-06, the amount of the assessment together with a notice of the time and location the governing body will meet to consider the approval of the assessment. Each assessment must be recorded, collected, and paid as other taxes are recorded, collected, and paid.

Source: 4499 (2005).

13-1316. 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.

Source: 4499 (2005).

13-1317. Site owner and address.--For purposes of this article, when the site is real property 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 auditor'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.

Source: 4499 (2005).

13-1318. 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.

Source: 4499 (2005).

13-1319. 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 Fargo 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.

Source: 4499 (2005).

13-1320. 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.

Source: 4499 (2005).

13-1321. 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.

Source: 4499 (2005).

13-1322. 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 Fargo Municipal Code section 1-0301(A). 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.

Source: 4499 (2005).