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## ARTICLE I

### PUBLIC NUISANCES

**6-101. PUBLIC NUISANCE DEFINED.** A public nuisance is a thing, act, failure to act, occupation, or use of property which:

1. Shall annoy, injure, or endanger the safety, health, comfort, or repose of any considerable number of persons;
2. Shall offend the public decency;
3. Shall unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage, a public park, square, street, alley, or highway;
4. Shall in any way render any considerable number of persons insecure in life or in use of property.

**6-102. PUBLIC NUISANCES: AFFECTING HEALTH.** The following are hereby declared to be public nuisances affecting health:

1. All decayed or unwholesome food offered for sale to the public;
2. All ponds, pools of water, or vessels holding stagnant water in which mosquitoes can breed;
3. Carcasses of animals not buried or otherwise disposed of in a sanitary manner within twenty four (24) hours after death;
4. Accumulations of manure, tin cans, boxes, decayed animal matter, decayed vegetable matter, or rubbish which are breeding places for flies, mosquitoes, or vermin;
5. Privy vaults and garbage cans which are not fly tight;
6. The pollution of any public well or cistern, stream, or body of water, by sewage, creamery or industrial wastes, or other substances;
7. All noxious weeds and other rank growths of vegetation upon public or private property;
8. Dense smoke, noxious fumes, gas, soot, or cinders in such quantities as to render the occupancy of property uncomfortable to a person of ordinary sensibilities;
9. All public exposure of persons having contagious disease;
10. The distribution of samples of medicines or drugs unless samples are placed in the hands of an adult person;
11. All other acts, omissions of acts, occupations, and uses of property which are in fact a menace to the public health.

**6-103. SAME: AFFECTING MORALS AND DECENCY.** The following are hereby declared to be public nuisances affecting public morals and decency:

1. All gambling devices, slot machines, and punch boards and all games of chance, gambling, and betting unless authorized by chapter IV of these ordinances.
2. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, bawdy houses, and resorting to any such place or enticing others to resort thereto;

3. All places where intoxicating liquors are manufactured, sold, bartered, or given away in violation of law where persons are permitted to resort for the purpose of drinking intoxicating liquors kept for sale, barter, or distributed in violation of law, and all liquors, bottles, kegs, pumps, bars, and other property kept at and used for maintaining such a place;
4. Any vehicle used for any illegal purpose;
5. All indecent or obscene pictures, books, pamphlets, magazines and newspapers;
6. The public use of profane or obscene language;
7. Betting, bookmaking, and all apparatus used in such occupations.

**6-104. SAME: AFFECTING PEACE AND SAFETY.** The following are declared to be public nuisances affecting public peace and safety:

1. All snow and ice not removed from public sidewalks within the time required by ordinance;
2. All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles approaching an intersection of public highways from having a clear view of traffic approaching such intersection from cross streets, for one hundred (100) feet along such cross streets measured from the property line, and when one hundred (100) feet from such intersection measured from the property line;
3. All limbs of trees which project over a public sidewalk or street and which are less than eight (8) feet above the surface of such public sidewalk and less than nine (9) feet above the surface of such street;
4. All wires over streets, alleys, or public grounds which are strung less than fifteen (15) feet above the surface of the ground;
5. All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise, and which are so situated as to endanger the safety of the public;
6. All explosives, inflammable liquids, and other dangerous substances stored in any manner or at any event other than that provided by ordinance;
7. All piles and stacks of hay, straw, forage, and other feed for animals, except as are stacked, situated, or located as permitted by ordinance;
8. All use or display of fireworks except as provided by ordinance, and any state law applicable thereto;
9. All loud or unusual noise and annoying vibration which offends the peace and quiet of persons of ordinary sensibilities;
10. All buildings and all alterations to buildings made or erected within the fire limits as established by ordinance in violation of the ordinance concerning manner and materials of construction;
11. Obstructions and excavations affecting the ordinary use of the public streets, alleys, and sidewalks, or public grounds except under such conditions as are provided by ordinance;

12. Any use of the public streets or sidewalks which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalks;
13. All hanging signs, awnings, and other similar structures over the streets or sidewalks as situated or constructed as to endanger public safety;
14. The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
15. All dangerous, unguarded machinery in any public place or so situated or operated on private property so as to attract the public;
16. The distribution of handbills, except as provided by ordinance;
17. All animals, pigeons, or domestic fowl running at large;
18. Interference with radio reception is prohibited when any person uses any electrical appliance, wiring, switch, fixture, motor, sign, or equipment (except an X-ray machine) so that the same interferes with the clear reception of radio waves by radio receiving sets operated in the City of Lisbon.

**6-105. NUISANCE: UNDER COMMON LAW AND LAW OF STATE.** In all cases where no provision is made for defining what are nuisances and how the same may be removed, abated, or prevented, those offenses which are known to the common law of the land and the statutes of North Dakota as nuisances may, in case the same exists within the City Limits or within one mile thereof, be treated as such, and proceeded against as in this title provided or in accordance with any other law which shall give the Court trying the same jurisdiction.

## ARTICLE II.

### MISCELLANEOUS NUISANCES

**6-201. RUBBISH, DUMPING AND BURNING OF.** It shall be unlawful for any person to dump or place in or burn or set on fire any straw, hay, manure, waste paper, or any rubbish of any kind or character on any of the public streets, sidewalks, alleys, or grounds within the fire limits of the City of Lisbon.

**6-202. OUTHUSES, CARCASSES, ETC., NOT TO BECOME NAUSEOUS OR UNWHOLESOME.** No person shall permit within the City Limits any building, outhouse, sewer, or sink to become nauseous or unwholesome, nor shall he allow any putrid or unsound beef, pork, fish, hides, skins, or any putrid carcass or any unwholesome substance or thing whatever, to be or remain on the premises of which he shall be the owner or occupant until by offensive and ill stench they shall become offensive, hurtful, or dangerous to the health of the neighborhood.

**6-203. OFFENSIVE TRADE, CALLING, OR BUSINESS, DECLARED NUISANCE.** No person shall within the limits of the City permit on his premises any nuisance by exercising any unwholesome or offensive trade, calling or business.

**6-204. PRIVIES DECLARED NUISANCE, WHEN.** All privies any part of the contents of which are above the surface or within two (2) feet of the surface of the earth, and all other privies that are foul and emitting smells and odors prejudicial to the public health, are hereby declared nuisances, and the Board of Health or Health Officer shall have power to abate the same.

### **ARTICLE III.**

#### **WEEDS**

**6-301. WEEDS, GRASS, PROHIBITED.** No owner of any lot, place or area within the City of Lisbon or the agent of such owner, shall permit on such lot, place or area, or upon any sidewalk abutting the same, any weeds, grass, or deleterious, unhealthful growths, or other noxious matter, that may be growing, lying or located thereon.

- 1) **NOTICE TO DESTROY.** The Street Commissioner is hereby authorized and empowered to notify, in writing, the owner of any such lot, place or area within the City or the agent of such owner, to cut, destroy, and/or remove any such weeds, grass, or deleterious, unhealthful growths, or other noxious matter, found growing, lying or located on such owner's property, or upon the sidewalk abutting same. Such notice shall be by registered mail, addressed to said owner, or agent of said owner, at his last known address, or by personal service. Such notice shall not be given more than twice a year, to wit: between May 1st and July 15th, and September 1st and October 1st. (Ord 8/5/91)
  
- 2) **ACTION UPON NON-COMPLIANCE.** Upon the failure, neglect, or refusal of any owner or agent so notified, to cut, destroy and/or remove weeds, grass, or deleterious, unhealthful growths, or other noxious matter, growing, lying, or located upon such owner's property or upon the sidewalk abutting the same, within ten (10) days after receipt of the written notice provided for in sub-section (1) above, or within ten (10) days after the date of such notice, in the event the same is returned to the City because of the inability of the US Postal Service to make delivery thereof, provided the same was properly addressed to the last known address of such owner, or agent, the Street Commissioner is hereby authorized and empowered to pay for the cutting, destroying and/or removal of such weeds, grass, or deleterious, unhealthful growths or other noxious matter or to order the removal by the City.

- 3) **COST TO BE ASSESSED AGAINST PROPERTY.** When the City has effected the removal of such noxious growth, or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of six percent (6%) per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be certified to the County Auditor for spreading against the property in accordance with Section 40-05-01.1 of the N.D.C.C. on the next regular tax bill forwarded to such owner by the county. Such charge shall be due and payable by said owner at the time of payment of such tax bill.

#### **ARTICLE IV.**

##### **PROHIBITING ABANDONMENT OF ICE BOXES, REFRIGERATORS**

**6-401. PROHIBITING ABANDONMENT IN PLACES ACCESSIBLE TO CHILDREN.** It shall be unlawful for any person, firm or corporation to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his or its control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator, or other container which has an air-tight door or lid, snaplock or other locking device which may not be released from the inside, without first removing said door or lid, snaplock or other locking device from said ice box, refrigerator or container.

#### **ARTICLE V.**

##### **PROHIBITING UNNECESSARY NOISES**

###### **6-501. MAKING OF UNNECESSARY NOISES CONSIDERED A DETRIMENT.**

- 1) The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the City of Lisbon.
- 2) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City of Lisbon and its inhabitants.



**6-502. MAKING OF UNNECESSARY NOISES UNLAWFUL.** It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the City.

**6-503. ACTS DECLARED TO BE UNNECESSARY, LOUD, DISTURBING.** The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but said enumeration shall not be deemed to be exclusive, namely:

1. **HORNS, SIGNALING DEVICES, ETC.** The sounding of any horn or signaling device of any automobile, motorcycle, street car or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
2. **RADIOS, PHONOGRAPHS, ETC.** The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of eleven o'clock p.m. and seven o'clock a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
3. **LOUD SPEAKERS, AMPLIFIERS FOR ADVERTISING.** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
4. **YELLING, SHOUTING, ETC.** Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11 p.m. and 7 a.m. or at any time or place so as to annoy or disturb the peace and quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

5. ANIMALS, BIRDS, ETC. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort of repose of any persons in the vicinity.
6. STEAM WHISTLES. The blowing of any locomotive steam whistles or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper city authorities.
7. EXHAUSTS. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
8. DEFECT IN VEHICLE OR LOAD. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
9. LOADING, UNLOADING, OPENING BOXES. The creation of a loud and excessive noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crates, and containers.
10. CONSTRUCTION OR REPAIRING OF BUILDINGS. The erection, (including excavating) demolition, alteration or repair of any building other than between the hours of 7 a.m. and 6 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit shall be renewed for periods of three days or less while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6 p.m. and 7 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6 p.m. and 7 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.
11. SCHOOLS, COURTS, CHURCHES, HOSPITALS. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school or hospital.
12. HAWKERS, PEDDLERS. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
13. DRUMS. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

14. METAL RAILS, PILLARS AND COLUMNS, TRANSPORTATION THEREOF. The transportation of rails, pillars, or columns of iron, steel, or other material over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.
15. PILE DRIVERS, HAMMERS, ETC. The operation between the hours of 10 p.m. and 7 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other apparatus, the use of which is attended by a loud or unusual noise.
16. BLOWERS. The operation of any noise creating blower or power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

#### ARTICLE VI.

#### RADIO INTERFERENCE

**6-601. OPERATION OF APPARATUS INTERFERING WITH RADIO RECEPTION PROHIBITED.** It shall be unlawful to operate, sell, or install electrical apparatus, appliances, or equipment that interferes with radio broadcast reception, unless necessary for medical purposes.

**6-602. OPERATION OF APPARATUS GENERATING HIGH FREQUENCY OSCILLATIONS INTERFERING WITH RADIO PROHIBITED.** It shall be unlawful for any person, firm, partnership, association, or corporation, knowingly or watonly, to operate or cause to be operated any apparatus, appliance or equipment of any kind whatsoever, within the corporate limits of the City of Lisbon, the operation of which will generate or cause high frequency oscillations, which interfere with radio broadcasts or wireless radio reception.

**6-603. SALE OF DEVICES CAUSING INTERFERENCE PROHIBITED.** It shall be unlawful for any person, firm, partnership, association, or corporation, to sell or install within the corporate limits of the City of Lisbon any appliances, devices, or other apparatus which the operation of will cause high frequency oscillations that interfere with broadcast or wireless radio reception. All appliances that may or do cause high frequency oscillations shall first be inspected and tested by the City Electrical Inspector and if found to cause said interference, shall be properly filtered and shall have the approval of the City Electrical Inspector before same are sold or installed.

**6-604. INSPECTOR APPOINTED.** The City Council may appoint some competent person from time to time as Electrical Inspector.

**6-605. RIGHT TO ENTER PREMISES.** The City Electrical Inspector appointed and acting under Chapter VI shall, upon presentation of evidence of his authority, have the right of access to any premises at any reasonable hour for the purpose of inspecting any equipment, appliance, device or apparatus coming within the terms of this article to determine if such equipment, appliance, device or apparatus complies with the terms of this article and it shall be unlawful for any person to interfere with the Electrical Inspector in making such inspection or to refuse to allow the Electrical Inspector to enter upon the premises for such purpose.

**6-606. DEFECTIVE EQUIPMENT, NOTICE.** When an inspection and test shall have been made by the Electrical Inspector, and defective equipment or apparatus coming within the terms of this article is found, the person responsible for the operation of such equipment shall be notified in writing to discontinue the use of such machine or to make additions, repairs, or modifications thereof, in order that the same may be operated in a manner which complies with the provisions of this article.

The mailing of a registered letter addressed to the owner or operator of the machine at the premises where the machine is located shall constitute a sufficient notice for the purpose of this section. In the event that the owner or operator of such machine or apparatus fails within forty-eight (48) hours after receipt of notice to repair the same so that it complies with the provisions of this article, such owner shall be deemed to be operating such machine or apparatus in violation of the provisions of this article.

## ARTICLE VII.

### ABANDONED PROPERTY

**6-701. PROPERTY ABANDONED UPON STREETS.** Any personal property abandoned or left unclaimed upon the streets, avenues, alleys or other public ways of the City for a period exceeding ten (10) days shall be taken up by any police officer of the City, or any employee of the City under the direction of the Street Commissioner, and shall be stored and held in such place as may be designated by the City Council.

**6-702. SAME: RECORD OF.** An accurate record of any property so taken up by any police officer of the City, or by any employee of the City under the direction of the Street Commissioner, shall be kept in each of the offices of the Street Commissioner and the Police Department with the date of such taking.

**6-703. SAME: REDEMPTION BY OWNER.** Any person who shall satisfactorily establish that he is the owner thereof, may reclaim any such article of personal property from the Street Commissioner or Police Department at any time after the taking thereof and before the sale thereof as hereinafter set forth, under payment to the City Auditor of the necessary expense of taking and storing said property, which expense shall be certified to the City Auditor.

**6-704. SAME: SALE OF.** Whenever in the judgment of the Chief of Police sufficient articles have been accumulated and held as hereinabove set forth for a period of sixty (60) days or more to justify the expense of a sale thereof, the same may be sold under the direction of the Chief of Police at public auction. The Chief of Police may designate a person to conduct such public auction.

Each item of such abandoned property which has been held by the Street Commissioner or Police Department for more than sixty (60) days shall be sold to the highest bidder for cash. The purchaser shall receive from the City of Lisbon a bill of sale to such property. At any time within six (6) months after the sale, the owner of the property, upon written application, shall be entitled to receive the proceeds of the sale from the City, less the necessary expense of taking, storing and selling the property. the owner of the property may reclaim it at any time prior to the sale upon payment of the necessary expense of taking and storing.

The Chief of Police shall keep accurate records of each such sale showing the price for which each article was sold.

**6-705. SAME: NOTICE OF SALE.** Notice of the time and place of such sale, and a brief description of the articles to be sold, shall be published once each week for two successive weeks in the official newspaper, the first publication to be not less than ten (10) days prior to the date of sale.

**6-706. SAME: REPORT TO CITY COUNCIL.** Immediately after the completion of the sale of such abandoned personal property, the Chief of Police shall report to the City Council his proceedings upon such sale, together with the price of each article sold, and shall remit to the City Auditor the entire proceeds of such sale. He shall file a duplicate copy of such report with the City Auditor.

**ARTICLE VIII.****AUTOMOBILES AND PERSONAL PROPERTY****6-801. AUTOMOBILES, PERSONAL PROPERTY; WHEN DECLARED NUISANCE.**

Any motor vehicle, animal or other article of personal property located within the City of Lisbon, the use, condition or status of which is in violation of any ordinance of the City of Lisbon, or any law of the State of North Dakota, or which constitutes an obstruction, hazard or detriment to public traffic, snow removal operations, public safety or public health or morals, or which may be damaged, disabled or involved in an accident, or in the commission of any violation of any ordinance of the City of Lisbon or any law of the State of North Dakota, or any vehicle or other article of personal property abandoned or unclaimed within the City of Lisbon, is hereby declared to be a public nuisance and shall be abated in the manner provided by this article.

**6-802. REMOVAL AND IMPOUNDING BY POLICE DEPARTMENT.**

The Police Department of the City of Lisbon may remove or cause to be removed to the City Fire Hall, or any other place within the City of Lisbon selected for the purpose, any personal property described in Section 6-801, may impound and retain the same until the expense of removal, storage and impounding is paid, together with the amount of any fine, costs, bail or other claims of the City of Lisbon against the owner, or any other person lawfully entitled to the possession thereof.

Any property so impounded may be considered abandoned property and shall be disposed of in accordance with Article VII of this Chapter.

**ARTICLE IX.****DANGEROUS STRUCTURE, BUILDING, BRIDGE, ETC.****6-901. DANGEROUS STRUCTURE, BUILDING, BRIDGE, EXCAVATION, ETC.**

**DECLARED A NUISANCE.** Any structure, building, bridge, excavation, ditch, cellar, basement, or the wall of any building within the City of Lisbon which by reason of its condition is dangerous to the health or is likely to cause accident or injury to any person is hereby declared a nuisance.

**6-902. DUTIES OF BOARD OF HEALTH WITH REGARD TO DANGEROUS, ETC.**

It is hereby made the duty of the Board of Health of the City of Lisbon, whenever it may be called to the attention of such department, or employee thereof, that any structure, building, bridge, excavation, ditch, cellar, basement or the wall of any building within the limits of the City of Lisbon, by reason of the condition which then exists with respect thereto, is dangerous to the health or is likely to cause accident or injury to any person, to make a thorough inspection of the premises upon and with respect to which such condition is alleged to exist, and to make a full and complete report thereof to the City Health Officer.

If in the opinion of the City Health Officer of the City of Lisbon, after a review of the report of the investigation hereinbefore provided for, a condition is found to exist with respect to the premises complained against which is dangerous to the health and is likely to cause accident or injury to any person, it shall be his duty to immediately order the owner, or occupant or agent for either, of the premises upon which such condition exists to abate such nuisance and eliminate such condition within such reasonable time as may be determined by such Health officer. It shall be the further duty of such health officer to give or cause to be given notice in writing, by registered mail to the owner or occupant or agent for either of such premises that such dangerous or hazardous condition exists and that the same must be abated and eliminated within the time specified in the notice.

## **ARTICLE X.**

### **TREES**

#### **6-1001. ADMINISTRATION.**

- a) A Shade Tree Committee is hereby created to be filled by appointment by the City Council. The committee shall consist of the following composition: The County Extension Agent; one representative of the public utilities; the State Forester; one representative of the Street Department; one representative of the Park Board; and three citizens at large. The members shall be appointed as follows:
- I. For a term of one (1) year
    - County Agent
    - One representative of the public utilities
    - One citizen at large
    - One representative of the Park Board
  - II. For a term of two (2) years
    - One representative of the City Employees
    - Two citizens at large
    - State Forester
- Annually thereafter, Group I and Group II shall be appointed alternately.
- b) The duties of the Shade Tree Committee shall be to advise and aid in the coordination of the tree care programs in the City of Lisbon.
- c) The committee shall choose its own officers; make its own rules and regulations and keep a record of its proceedings. Regular reports of the business conducted as well as rules and regulations adopted shall be given to the City Council and a majority of the members on the Board shall be a quorum for the transaction of business.
- d) The members of the committee shall serve without compensation.  
(Ord 92-1) (Ord 94-3)

**6-1002. NUISANCE DECLARED.**

The following conditions are public nuisances whenever they may be found within the City of Lisbon.

- a) Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus, *Ceratocystis ulmi*, and which harbors any of the elm bark beetles, *Scolytus multistriatus* or *Hylurgorinus rufipes*.
- b) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed or chipped and buried in a land fill.
- c) Any tree, shrub or hedge, or part thereof, growing upon public property or upon private property but overhanging or interfering with the use of any public walk, street or highway, park or public place within the City of Lisbon, which in the opinion of the majority of the Shade Tree Committee, endangers the life, health, safety or property of the public, may be declared a public nuisance. (Ord 94-3)

**6-1003. ABATEMENT.**

It is unlawful for any person to willfully permit any public nuisance as defined in Section 6-1002 to remain on any premises owned or controlled by him within the City. Such nuisance may be abated in the manner prescribed by this ordinance.

**6-1004. INSPECTION AND INVESTIGATION.**

- a) The Shade Tree Committee, its employees or agents shall inspect all premises and places within the City annually to determine whether any condition described in Section 6-1002 exists therein.
- b) The Shade Tree Committee or its agent may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them under this ordinance.
- c) The Shade Tree Committee, may determine trees infected with Dutch Elm disease. Action to remove the wood or tree will be delayed for a reasonable period of time if the landowner wishes to send a specimen or sample to a qualified plant disease diagnostician at the owner's expense.
- d) A major survey shall be made at least once per year.
- e) The inspection shall determine all hazards as specified in Section 6-1002 c). The owner shall be notified in writing of the existence of the nuisance and given a reasonable time for its removal. (Ord 94-3)



**6-1005. ABATEMENT OF NUISANCE ON PUBLIC PROPERTY.**

- a) In abating the nuisance in public streets, alleys, boulevards or public ways as defined in Section 6-1002 a) and 6-1002 b), the Shade Tree Committee shall cause the infected tree wood to be removed or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch Elm disease fungus and elm bark beetles. Such abatement procedures shall be carried out in accordance with the latest technical and expert methods and plans as may be designated by the Commissioner of Agriculture of the State of North Dakota. The Shade Tree Committee shall establish specifications for tree removal and disposal methods consistent therewith.
- b) In abating tree hazard on public property as defined in Section 6-1002 c), the City Forester may cause such hazards to be removed and disposed in accordance with the tree care specifications which the Committee shall accept, the cost to be assessed as defined in Section 6-1010. (Ord 94-3)

**6-1006. ABATEMENT OF NUISANCE ON PRIVATE PROPERTY.**

- a) Whenever the Shade Tree Committee finds with reasonable certainty that the Dutch elm disease defined in Section 6-1004 c) exists in any tree or wood located on private property, outside of any public way in the City, he shall notify the owner or person in control of such property on which the nuisance is found by mail within five days of receipt of the nuisance determination. An affidavit of mailing shall be made at the time of mailing the notification, and shall constitute *prima facie* proof of said mailing. The Shade Tree Committee shall direct that the diseased tree be removed and effectively treated in a manner approved by the Committee within thirty (30) days after receipt of such notice. If such owner cannot be found, a copy of said notice shall be posted upon said infected tree. If said tree is not so removed and/or treated as specified within thirty days after posting of the notice, the Shade Tree Committee shall remove and/or treat said tree. The owner or person in charge may be charged with a violation of this ordinance for maintaining a nuisance and the City may abate the nuisance, the cost to be assessed as defined in Section 6-1010. (Ord 94-3)
- b) **ABATEMENT OF TREE HAZARDS ON PRIVATE PROPERTY.**  
The nuisance as defined in Section 6-1002 c) shall be abated by the owner following notification of the existing nuisance. If not corrected or removed within the time allotted, the Shade Tree Committee shall authorize the removal or correction to be done in accordance with recommended procedures, the property owner to bear the cost (Ord 94-3)

**6-1007. SPRAYING.**

- a) Whenever the City Forester, shall determine that any elm tree or part thereof is infected with Dutch elm disease fungus and is in a weakened condition, he may cause all elm trees within a 1,000 foot radius thereof to be treated with an effective elm bark beetle destroying, concentrate as recommended by the State Entomologist.
- b) In order to facilitate the work and minimize the inconvenience to the public of any treating operations conducted under this ordinance, the Shade Tree Committee shall cause to be given advance public notice of such operations by newspaper, radio, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be treated at least 24 hours in advance.
- c) When appropriate warning notices have been given and posted in accordance with subsection b) of this section, the City shall not allow any claim for damages to any vehicle damaged by such treating operations.
- d) When trees on private property are to be treated, the City Forester shall notify the owner of such property and proceed in accordance with the requirements of this ordinance.

**6-1008. TRANSPORTING ELM WOOD PROHIBITED.**

It shall be unlawful for any person to transport or store within the City any bark bearing elm wood between April 1 and October 15. (Ord 94-3)

**6-1009. INTERFERENCE PROHIBITED.**

It shall be unlawful for any person to prevent, delay or interfere with the Shade Tree Committee, its employees or agents while they are engaged in the performance of duties imposed by this ordinance.

**6-1010. COSTS.**

The costs for abating of the public nuisances as defined in Section 6-1002 shall be borne as follows:

- a) For abatement of the nuisances as defined in Section 6-1002 a) and with the nuisance occurring on public land and on park district lands, the cost will be borne by the City of Lisbon. For abatement of the nuisance as defined in Section 6-1002 a) and with the nuisance occurring on private land or on any street, alley, boulevard or other public way adjoining the private property, the cost shall be borne by the private owner.
- b) For abatement of the nuisance as defined in Section 6-1002 b), the costs shall be borne as defined in Section 6-1010 a).

- c) For abatement of the nuisance as defined in Section 6-1002 c), and the nuisance occurring on public land and on park district lands, the cost will be borne by the City of Lisbon. When the nuisance occurs on any street, alley, boulevard or other public way, the cost shall be borne by the property owner adjoining the street, alley, boulevard or public way.
- d) The cost of spraying for abatement of the nuisance as defined in Section 6-1002 a) and 6-1002 b) shall be borne by the City of Lisbon when the nuisance is on public property and on park district land. Cost will be borne by the private owner when spraying is required on private land and on public streets, alleys, boulevards or public ways which are adjacent to private land.
- ) The cost of tree planting for replacement of diseased trees on public property will be borne by the respective government body owning the property.

The cost of tree planting for replacement of diseased trees on private property will be borne by the private owner.

#### **6-1011. TYPES OF TREES TO BE PLANTED.**

The following trees may be used for planting in public parkways and berms: Black Walnut, Green Ash, American Basswood(Linden), Bur Oak, Hackberry, Silver Maple; and no tree not herein mentioned shall be planted without special permission from the office of the City Forester. The following trees may NOT be planted on the parkways, berms, or boulevards of the City of Lisbon: Cottonwood, Poplar, Willow, Box Elder, and Evergreens. In order to achieve certain landscape effects, the City Forester may at times use trees not generally recommended. Tree sizes and spacing of trees shall be in accordance with regulations of the office of the City Forester. All of the above said trees shall be properly maintained by the property owner. (Ord 94-3)

#### **6-1012. SEPARABILITY.**

In case any section of this ordinance is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected and other sections of this ordinance shall continue in full force and effect.

#### **6-1013. PENALTY**

Any person, firm or corporation who violates any of the provisions of this ordinance shall upon conviction thereof, forfeit not less than \$10 nor more than \$100, together with the costs of prosecution and in default of payment thereof shall be imprisoned until such costs are paid, but not exceeding 90 days.

**ARTICLE XI.****ABATEMENT OF NUISANCES, ASSESSMENT OF COSTS**

**6-1101. EXPENSE OF REMOVAL OR SANITATION IMPROVEMENT CHARGED AS SPECIAL ASSESSMENT.** Whenever it becomes necessary for the general welfare, public health, fire protection or public safety to order an owner or occupant of property to do certain work provided for by any chapter, article or section, whichever is applicable, of these Revised Ordinances, upon notice given, and the owner or occupant refuses to obey or comply with such order, the work shall be done by the municipality as hereafter set forth and the owner or occupant of such property billed for the same by the municipality. If such charge for such work or service is not paid when due, as hereafter set forth, the same may be assessed against the premises on which such work was done, or for which the service was rendered, to be certified by the City Auditor for collection as herein provided and under authority of Section 40-05-01.1 of the North Dakota Century Code.

**6-1102. WORK DONE BY CITY, WHEN.** Where a notice to remove refuse, rubbish, manure, offal, stagnant water, noxious weeds, dilapidated structures, dangerous conditions, or nuisances defined by ordinance has been given as required by any ordinance of the City of Lisbon, and the work is not done by the owner within the time specified, the City of Lisbon shall, under the direction of the Chief of Police, proceed to remedy or correct such situation by removing the structure or condition deemed to be hazardous or dangerous to public health, safety and welfare, at the expiration of any period of time prescribed for the remedy of such condition by these ordinances. In the event that no time for such notice is specifically set by other sections of these revised Ordinances a ten (10) day notice to remove or correct such structure or condition shall be all that is required prior to the Chief of Police proceeding to use City Personnel and equipment to correct such condition.

**6-1103. CITY COST CHARGED TO OWNER OR OCCUPANT.** Where the City of Lisbon shall have used its equipment and personnel for such clean-up, the cost of such service shall be carefully itemized by the Chief of Police, or other designated official or employee, and certified to the City Auditor as being a true and correct itemization of the cost of such removal, clean-up and remedy of the unsanitary, dangerous or unlawful condition.

The appropriate official or employee shall certify at the end of such itemization as follows:

I do hereby certify that the above and foregoing itemization is a true and correct copy of the labor, time, material, equipment and other expenses incurred by the City of Lisbon in correcting or remedying the above and foregoing described condition and that such amount is the amount to which the City of Lisbon is entitled to be reimbursed for such work performed.

Signed \_\_\_\_\_

Title \_\_\_\_\_

**6-1104. AUDITOR TO TRANSMIT STATEMENT.** Upon receipt of such itemized statement the City Auditor shall cause the owner, or occupant, whichever applicable, to be billed for such work or services upon statement forms prepared by the City Auditor and shall also send a copy of the itemization referred to in Section 6-1103 with such statement. Failure on the part of the City Auditor to enclose a copy of the itemization required in Section 6-1103 above shall not in any manner invalidate the proceedings had under this article.

**6-1105. COUNCIL TO CERTIFY AS SPECIAL ASSESSMENT, WHEN.** Any account referred to the City Council from the City Auditor shall be examined by the Finance Committee. Such committee shall endorse its recommendation upon said account and cause the same to be referred to the City Council for a resolution of the City Council requiring the City Auditor to certify such amount to the County Auditor as a special assessment against the real estate upon which the work was done or the service rendered. Such resolution shall identify the property involved and the amount of charges for work performed or services rendered.

This article shall apply only where the procedure for assessing the cost of work or services performed by the City is not otherwise specified in these Revised Ordinances.

**6-1106. CHIEF OF POLICE TO CARRY OUT ORDERS OF HEALTH OFFICER.** It shall be the duty of the Chief of Police to carry out all of the orders of the Health Officer and City Council of the City of Lisbon in regard to the sanitary condition of the city; to proceed immediately upon view of information when complaint shall be made and make a thorough examination, and cause all nuisances to be abated with reasonable promptness. For the purpose of carrying out the foregoing requirements the Health Officer and the Chief of Police or any police officer shall be permitted at any time to enter into any house, store, stable, or other building and cause the floor to be raised, if he shall deem it necessary, in order to make a thorough examination of the cellar, vault, sink, drain or sewer; to enter upon all lots or ground and cause all stagnant water to be drained off; to cause all pools, sinks, vaults, drains, sewers, or low grounds to be cleansed, purified, filled up or otherwise improved, amended or abated; to cause all privies to be cleaned and kept in good condition; and to cause all dead animals, fowl, and to other offensive things or substances to be eliminated or removed beyond the city limits.

**6-1107. POLICE TO SERVE NOTICE.** In order to carry out the provisions of this article, it shall be the duty of the Chief of Police or any police officer to serve notice in writing or printing, or partly both, upon the owner, occupant, or agent, of any lot, building, or premises in or upon which any nuisance may be found, or upon the person who may be the cause of such nuisance, requiring him to abate or remove the same in such a manner as such officer shall prescribe, within such time as such officer shall deem reasonable. Provided, that it shall not be necessary in any case for such officer to specify in his notice the manner in which such nuisance shall be removed or abated, unless he shall deem it advisable to do so or unless otherwise specified in these Revised Ordinances; and such notice may be given or served by any person or officer who may be directed or authorized to give or make the same, and if such owner, occupant, agent, or person who may be the cause of the nuisance shall neglect or refuse to comply with the requirements of such notice or order within the time specified, he shall be subject to the penalty as hereinafter defined for every violation. It shall be the duty of such officer on the expiration of the time specified in such notice to cause such nuisance to be abated or removed. Provided, that whenever the owner, occupant, or agent of any lot or premises in or upon which any nuisance may be found, or the owner or cause of such nuisance is unknown or cannot be found, the Chief of Police shall proceed to abate the same without notice; and in all cases shall proceed to assess and collect the expenses of the abatement of all nuisances upon the premises or property, upon which the same may be found, or on which such expenses may be chargeable, as provided in this article.

**6-1108. NUISANCES TO BE ABATED, BY WHOM.** Whenever any nuisance whatever shall be found on any premises or elsewhere within the city, contrary to the provisions of these Revised Ordinances, the Health Officer and Chief of Police of the City are hereby respectively authorized in their discretion to cause the same to be summarily abated in such manner as they may direct.

**6-1109. PENALTY.** Any person, firm or corporation violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.