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CHAPTER TEN HEALTH

ARTICLE 1 - Board of Health

10.0101 Members

The Board of Health is composed of the City Council, which shall have and exercise all powers under the law. (Source: North Dakota Century Code Section 23-35-03).

10.0102 Regulations

The Board of Health may make rules regarding any nuisance, source of filth, and any cause of sickness that are necessary for public health and safety. The Board of Health shall appoint a local Health Officer. (Source: North Dakota Century Code Section 23-35-08).

ARTICLE 2 - Local Health Officer

10.0201 Duties of Local Health Officer – Term

A local Health Officer shall serve a term of five years, subject to removal for cause by the City Council or the district board of health. The Health Officer must be a physician licensed to practice medicine in this state and need not be a resident of the city. The appointee shall qualify by filling the constitutional oath of office. 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 City Council. At the next meeting of the City Council shall declare the office vacant and promptly appoint another physician to fill the unexpired term.

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 exercise the powers and duties of the board of health under their supervision.
3. May make sanitary inspections of any place in the city in which the local Health Officer finds a probability that 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 schools 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 the public health and safety.
7. May determine when quarantine and disinfection is necessary for the safety of the public. The local Health Officer may establish quarantines consistent with procedures provided under chapter 23-07.6 of the North Dakota Century Code, and perform any acts required for disinfecting when necessary.
8. Shall maintain an office in the city consistent with any terms of appointment.
9. May select and discharge any assistant Health Officer, consistent with any terms of appointment.

A local Health Officer may request the assistance of a county sheriff or city health department in the same manner as provided under subsection 3 of section 23-35-09 of the North Dakota Century Code.

10.0202 Penalty

Any person who violates any order, ordinance, or rule prescribed by the board of health or local Health Officer or any rule adopted under this chapter shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not to exceed thirty (30) days or both such fine and imprisonment. (Source: North Dakota Century Code Section 23-35-13).

ARTICLE 3 – Garbage, Refuse, Rubbish

10.0301 Definitions

For the purpose of this article the following words shall the meanings given herein:

“Ashes” is the residue from burning wood, coal, coke or other combustible materials.

“Garbage” is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

“Refuse” is all putrescible and non-putrescible solid wastes (except body wastes) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and sold market and industrial wastes.

“Rubbish” is non-putrescible solid wastes (excluding ashes) consisting of both combustible and non-combustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

10.0302 Accumulation of Refuse Prohibited

No person shall permit or allow 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 that person, any and all refuse, nor allow such yard, lot, place or premises to be or remain in such condition.

10.0303 Containers

All garbage and rubbish shall be placed by the person upon whose premises the same shall have been produced or accumulated, in watertight containers, which shall be protected against the access of flies and rodents.

Containers shall be placed in the alley of those lots having access to any alley and along the curb if no alley is accessible. The City may specify where containers shall be placed along the alley or street for the convenience of collection.

10.0304 Burning

No garbage, refuse or rubbish shall be burned within the City.

10.0305 Nuisance

Failure to comply with the provisions of Sections 10.0302, 10.0303 and 10.0304 shall constitute a public nuisance and be punishable as such under the terms of Chapter Twelve of these ordinances.

10.0306 City Collection

All garbage and rubbish as defined herein shall be collected by the city or franchised contractor as frequently as is necessary to maintain and preserve community cleanliness and sanitation, except that this section shall not require the collection of garbage and rubbish where streets and alleys are in a temporary condition which makes it impossible to do so and in case of the failure to collect such garbage and rubbish, such failure shall not relieve the occupant of the premises from the payment of the garbage and rubbish collection fees.

10.0307 Fees

Fees for the collection of garbage by the City or franchised contractor and disposal thereof are as set by the Fees and Rates Resolution of the City Council.

10.0308 Fees – Payment – Collection

In all places where water service is provided, fees for garbage collection shall be added to and collected as a part of the utility bill, but shall be separately stated on the bill. Garbage collection bills shall be due and payable at the same time as the utility bill. If such charge is not paid when due the water service to the premises shall be shut off in the same manner as is now provided for in the case of delinquency in payment of utility bills and such service shall not be restored without payment of the penalties now provided for.

In all places where water service is not provided, the fees for garbage collection shall be paid to the City upon utility bills. If the garbage 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 so served, or in any other lawful manner..

The proceeds of the fees and charges shall be placed in the garbage fund, and all shall be paid out of the garbage fund.

10.0309 Fees for the Use of the City Landfill

The City Council is hereby authorized to designate the location or places to which all waste referred to in this article shall be hauled, deposited or disposed of by commercial haulers or non-residents of the City of Cando.

The fees for the use of the city landfill as above designated for commercial haulers, non-residents, or those individuals who are not subject to the provisions relating to the collection of garbage and rubbish shall be as set by the Fees and Rates Resolution by the City Council. Any unauthorized dumping of garbage or rubbish shall be an infraction and upon conviction thereof, the responsible party shall be fined the sum of \$250.00 for every violation.

No person shall dispose of garbage, rubbish and ashes, debris and other such waste in a manner not provided for in this chapter.

10.0310 Fees – Payment – Collection by Franchised Contractor

In the event the City elects to franchise a contractor to perform the collection services contemplated by this section, collection of fees, limited as set out in this section, are to be made by agreement with the contractor.

10.0311 Disposal of Refuse not Collected by the City

All other wastes as defined, and not included under garbage, rubbish and ashes, may be disposed of by the person creating such waste, by hauling such waste for disposal to such points as are designated or approved by the City Health Officer.

10.0312 Supervision

The collection, removal and disposal of garbage and rubbish under the provisions of this article shall be under the supervision, direction and control of the Public Works Superintendent with the assistance of the City Health Officer.

10.0313 Rules and Regulations

The City Health Officer shall prescribe such reasonable rules and regulations in connection with preparation, handling and disposition of garbage and rubbish as may be necessary to regulate, enforce and carry out the provisions of this chapter. The Health Officer may direct that the city garbage and rubbish collection crews shall not collect garbage and rubbish from any premises where such 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 fees nor from the enforcement of the penalties of this code. In the absence of city collection crews the Health Officer may give instructions to a franchised contractor.

ARTICLE 4 – Dangerous Buildings

10.0401 Dangerous Buildings Defined

For the purpose of this chapter, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health property or safety of the public or its occupants are endangered.

Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

Whenever the stress in any materials, member or portion thereof due to all dead and live loads, are more than on and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.

Whenever any portion thereof has been damaged by fire, earthquake, wind, and flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse.

Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members or 50 percent damage or deterioration of its non-supporting member, enclosing or outside walls or coverings.

Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children; a harbor for vagrants, criminals or immoral persons; or as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this city, as specified in the Building Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 66 percent of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Health Officer to be unsanitary, unfit for human habitation or is such a condition that is likely to cause sickness or disease.

Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.

Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure for a period of 30 days, or whenever any building or structure is abandoned for a period in excess of 6 months, so as to constitute such building or portion thereof a hazard to the public.

10.0402 Standards for Repair, Vacation or Demolition

The Building Inspector, or other designated official and the City Council in ordering repair, vacation or demolition shall follow the following standards in substance.

If entry upon the premises, building, or structure constitutes a hazard, as determined by the Building Inspector, or other designated official, to the public adequate fencing or other method, approved by the Building Inspector, or other designated official shall be immediately put in place. This will also apply to the premises if a building is removed.

If the "dangerous building" can be reasonably repaired so that it will no longer exist in violation of the terms of this article it shall be ordered repaired.

If the "dangerous building" is in such condition as to make it dangerous to the health, safety or general welfare of its occupant it shall be ordered to be vacated.

In all cases where a building cannot be repaired so that it will no longer exist in violation to the terms of this article it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this article or any ordinance of the City or statute of the State of North Dakota, it shall be demolished.

10.0403 Dangerous Buildings – Nuisances

All “dangerous buildings” within the terms of Section 10.0401 of this article are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided in this ordinance or under state law.

10.0404 Duties of Building Inspector, or other designated official

The Building Inspector, or other designated official, as designated by the City Council, shall:

Inspect or cause to be inspected periodically, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places a “dangerous building” within the terms of Section 10.0401 of this article.

Inspect any building, wall or structure about which any person to the effect files complaints that a building, wall, or structure is or may be existing in violation of this article.

Inspect any building, wall or structure reported by the fire or police departments of this City as probably existing in violation of the terms of this article.

Notify in writing the owner, occupant, lessee, mortgagee and all other persons having an interest in said building, as shown by the records in the office of the County Register of Deeds, of any building found to be a “dangerous building” within the standards set forth in Section 10.0401 of this article that: the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this article; the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty (30) days as may be necessary to do, or have done, the work or act required by the notice provided for herein.

Set forth in the notice provided for above a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a “dangerous building”, and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty (30) days, as is reasonable.

Report to the City Council any noncompliance with the “notice” provided for above.

Appear at all hearings conducted by the City Council and testify as to the conditions of “dangerous buildings”.

Place a notice on all “dangerous buildings” reading as follows: “This building has been found to be a dangerous building by the Building Inspector, or other designated official. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice, which has been given the owner, occupant, lessee or mortgagee of this building, and all other person having an interest in said building. It is unlawful to remove this notice until such notice is complied with.”

10.0405 Duties of the City Council

The City Council shall:

Upon receipt of a report of the Building Inspector, or other designated official give written notice to the owner, occupant, mortgagee, lessee and all other person having an interest in said building as shown by the records of the County Register of Deeds, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a “dangerous building” should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector, or other designated official’s notice.

Hold a hearing and hear such testimony as the Building Inspector, or other designated official or the owner, occupant, mortgagee, lessee or any other person having an interest in said building shall offer relative to the “dangerous building”.

Make written findings of fact from the testimony offered as to whether or not the building in question is a “dangerous building” within the terms of section 10.0401 hereof.

Issue an order based upon findings of fact commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building to repair, vacate or demolish any building found to be a “dangerous building” within the terms of this article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said “dangerous building”.

10.0406 Failure to Comply with Decision of the City Council

If the owner, occupant, mortgagee or lessee fails to comply with the order of the City Council or fails to appeal to the District Court within thirty (30) days as provided herein, the City through its officers and employees shall cause such building or structure to be repaired, vacated or demolished as ordered by the City Council and shall cause the costs of such repair, vacation or demolition to be charged against the land on which said building existed by special assessment, or as a municipal lien, or shall cause said cost of removal to be levied as a special tax against the land upon which said building stands or did stand or to be recovered in a suit at law against the owner.

10.0407 Violations – Penalty for Disregarding Notices or Orders

The owner of any “dangerous building” who shall fail to comply with any notice or order to repair, vacate or demolish said building given by any person authorized by this article to give such notice or order shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding one thousand dollars (\$1,000.00) for each offense and every day subsequent to such notice in which the said owner shall fail to comply with any notice or order as above stated, shall be deemed a separate offense.

The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said building in accordance with any notice given as provided for in this article shall be guilty of an infraction and upon conviction thereof shall be fined not exceeding one thousand dollars (\$1,000.00) for each offense and every day subsequent to such notice in which the said occupant or lessee shall fail to comply with any notice or order as above stated, shall be deemed a separate offense.

Any person removing the notice provided for in Section 10.0404 shall be guilty of an infraction and upon conviction shall be fined not exceeding one thousand dollars (\$1,000.00) for each offense.

It shall be the Municipal Judge’s decision to use the sentencing defined in Article 5 of Chapter 13 of the Revised Ordinances of the City of Cando.

10.0408 Duties of the City Attorney

The city attorney shall:

Prosecute all persons failing to comply with the terms of the notices provided for herein in Section 10.0404, and the order provided for in Section 10.0405.

Appear at all hearings before the City Council in regard to “dangerous buildings”.

Take such other legal action as is necessary to carry out the terms and provisions of this article.

10.0409 Where Owner Absent from the City

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the City, all notice or orders provided for herein shall be sent by mail, with a confirmation of delivery, to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the land records of the County Register of Deeds to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the “dangerous building” to which it relates. Such mailing and posting shall be deemed adequate service.

10.0410 Duties of Fire, Police and Health Department

All employees of the fire, police and health departments shall make written reports to the Building Inspector, or other designated official of all buildings or structures, which are, or may be suspected to be, “dangerous buildings” as herein defined.

10.0411 Appeal

The City Council shall service upon the owner, occupant, mortgagee, lessee and all other persons having an interest in any building ordered to be repaired, vacated or demolished, a copy of its order. The owner, occupant, mortgagee or lessee shall thereafter have thirty (30) days from the date of the service of such order in which to appeal from such order to the District Court or to take such other legal steps to enjoin the enforcement of such order.