TITLE XV.

HEALTH

CHAPTERS:

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CHAPTER 15-01

BOARD OF HEALTH AND HEALTH OFFICER.

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

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

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

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

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

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

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

15-0105. **POWER TO ENTER BUILDING**. Whenever the Health Officer of the City of Mapleton, or his assistant, or the City Council shall deem it necessary for the preservation of the health of the inhabitants within the City, to enter any building within the City of Mapleton for

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

CHAPTER 15-02

GARBAGE

SECTIONS:

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

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

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

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

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

15-0202. **GARBAGE CANS - REQUIRED - CAPACITY - CONSTRUCTION**. Every owner or occupant of any house, hotel, restaurant, building, flat, apartment, tenement, commercial building, tourist court or mobile home park unit in this City, where persons reside, board or lodge,

or where animal or vegetable food is accumulated, kept for sale, prepared or served, shall provide for such house, hotel, restaurant, building, flat, apartment, tenement, commercial building, tourist court or mobile home park unit, and at all times maintain in good order a vessel or vessels for garbage.

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

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

15-0203. **GARBAGE TO BE WRAPPED - SUBSTANCES TO BE PLACED IN GARBAGE CAN**. All garbage must be wrapped in a reasonable manner before being placed in any garbage receptacle or vessel. It shall be unlawful for any person or persons to place garbage in a vessel or receptacle in a loose or unwrapped condition.

Rubbish and ashes may be wrapped and placed in said garbage receptacle or it may be wrapped and placed in a separate container no larger than twenty-four (24) inches by thirty-six (36) inches.

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

15-0205. **WHO MAY REMOVE CONTENTS OF GARBAGE CAN**. It shall be unlawful for any person, firm or corporation, or any agent or employee thereof to haul, carry or convey through, along, or upon any public street, alley or sidewalk within the City of Mapleton, any garbage, rubbish, or ashes as classified under this chapter unless employed, licensed or permitted by the City of Mapleton, to carry or convey garbage.

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

15-0207. **GARBAGE COLLECTION FEES**. The fees for garbage collection shall be paid monthly in advance and shall be as set forth by resolution of the City Council of the City of Mapleton.

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

Notwithstanding any other provisions of this ordinance, any person receiving a reduction in the assessment or assessed valuation of their homestead in accordance with Section 57-02-08.1 of the North Dakota Century Code shall pay a fee of $2.25 per month for garbage collection.

Source: Ord. 197-07, Sec. 1 (2007)

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

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

15-0210. **GARBAGE NOT MEETING SPECIFICATIONS**.

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

1. Liquids.

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

3. Animal manure.

4. Septic tank pumpings.

5. Unrinsed pesticide containers.

6. Hazardous wastes including:

a. Ignitibles (solvents, fuels and similar materials).
b. Corrosives (acids, alkalies and similar materials).

c. Reactives (hypo chlorites, swimming pool chemicals, cyanides, and similar materials).

d. EP toxic (paint sledges containing lead, chrome and similar materials).

7. Waste oil.

8. Asbestos.

9. Infectious wastes.

10. PCB's.

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

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

1. Lead acid batteries.

2. Tires.

3. Appliances.

4. Furniture.

5. Other items with the approval of the City Agent.

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

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

of the permit by certified mail stating the reasons for such revocation. Such revocation shall become final unless, within seven (7) days from the date of the mailing of such notice, the holder of such permit shall, in writing, request a hearing thereon by the City Council. The hearing shall be held at the next regularly scheduled meeting of the City Council, and the decision of the Council shall be final.

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

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

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

CHAPTER 15-03

PUBLIC NUISANCES

SECTIONS:

15-0301. Nuisances - Defined.
15-0302. Nuisances Prohibited.
15-0303. Definitions.
15-0304. Sanitary Nuisances.
15-0305. Noxious Weeds.
15-0306. Hedge, Tree or Growth - When a Nuisance.
15-0307. Junk Automobile, Building Materials - Storage or Accumulation Contrary to Public Health and Welfare.
15-0308. Abandoned Automobiles - Unclaimed Personal Property - Nuisance.
15-0309. Snow and Ice Removal - Sidewalks - Nuisance.
15-0310. Snow and Ice Removal - Public Streets - Nuisance.
15-0311. Dumping - Excavation - Nuisance.
15-0312. Notice to Remove Nuisances.
15-0313. Failure to Remove - Prosecution.
15-0314. Failure to Remove - Civil Penalty.
15-0315. Penalty.
15-0316. Authorized Persons.
15-0317. Odor - Nuisance.

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

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

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

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

2. "Noxious Weeds" shall include noxious vegetation and unhealthful vegetation.

   (a) The term "noxious vegetation" shall mean and include all weeds, of the kinds known as Canadian thistle, sow thistle, quack grass, leafy spurge ("Euphorbia esula or Euphorbia virgate"), field bindweed, Russian knapweed ("Centaurea Picris"), hoary cress ("Lapidium draba, Lepidium repens and Hemenophysa pubescens") and dodder.

   (b) The term "unhealthful vegetation" shall mean and include all vegetation which is in such a state of growth as to constitute a health hazard and/or which is conducive to the breeding of disease.

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

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

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

6. "Building materials" shall include, without limitation, lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other material used in constructing any structure.

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

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

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

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

15-0304. **SANITARY NUISANCES**.

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

2. PRIVIES AND SEPTIC TANK NUISANCES. It shall be a nuisance and offense for the subsurface contents of any privy to be above the surface or within two (2) feet of the surface of the earth; and all other privies and all septic tanks that are foul and emitting smells and odors.

3. HARBORAGE FOR RATS PROHIBITED. It shall be a nuisance and offense for any person to accumulate on any premises, improved or vacant, and on all open lots and alleys in the City of Mapleton, any lumber, boxes, barrels, bricks, stones, or similar materials that may be permitted to remain thereon unless the same shall be placed on open racks that are elevated not less than six (6) inches from the ground, and evenly piled or stacked so that these materials will not afford harborage for rats.

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

animal matter shall have become unsound, or after the process of decay shall have begun in the same, whether it be at any establishment for the rendering or changing the character thereof, or elsewhere within the said City, or within one (1) mile of the limits thereof.

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

6. ACCUMULATION OF RUBBISH AND GARBAGE IN CITY LIMITS PROHIBITED. It shall be a nuisance and offense for any person to permit or suffer to accumulate in or about any yard, lot, place or premises, or upon any street, alley, sidewalk or City property, adjacent to or abutting upon any lot, block, place or premises owned or occupied by him within the City limits, refuse, vegetables, decayed or decaying substances, garbage, paper, rubbish, manure, dead animals or ashes or filth of any kind nor suffer such yard, lot, place or premises to be or in such condition. Provided, however, that such section shall not preclude a person from maintaining a compost heap on property owned or leased by that person from materials obtained from that property and to be used on that property.

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

15-0305. **NOXIOUS WEEDS PROHIBITED**. It shall be a nuisance and offense for any person owning or occupying any lot or tenement in the City of Mapleton, to grow or allow to grow thereon any noxious vegetation and/or unhealthful vegetation.

15-0306. **HEDGE, TREE, OR GROWTH - WHEN A NUISANCE**. Any hedge, tree, or growth of any kind or character maintained on any property in the City of Mapleton, so located or of such height as to constitute a traffic hazard by obstructing the view of the driver of any vehicle upon the streets of the City to the extent that such driver is unable to readily observe the approach of other vehicles on the streets, alleys, and at intersections, or which is likely, because of its location or height, to cause accidents or injury to any person, is hereby declared a nuisance and offense.

15-0307. **JUNK, JUNK AUTOMOBILES, BUILDING MATERIALS - STORAGE OR ACCUMULATION CONTRARY TO PUBLIC HEALTH AND WELFARE**. It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, upon any private property within the City of Mapleton, tends to result

in blighted and deteriorated neighborhoods, the increase in criminal activity, the spread of vermin and disease, and is contrary to the public peace, health, and safety and general welfare of the community.

1. UNLAWFUL TO ACCUMULATE ABANDONED VEHICLES AND JUNK. It shall be a nuisance and offense for any person to store or permit the storage or accumulation of trash, rubbish, junk, junk automobiles, or abandoned vehicles on any private property in the City of Mapleton except within a completely closed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods, or junk gatherer.

2. UNLAWFUL TO DISMANTLE AUTOMOBILE - EXCEPTION. It shall be a nuisance and offense for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same be a junk automobile, abandoned vehicle or otherwise, or any appliance or machinery except in a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods, or junk gatherer.

3. UNLAWFUL TO STORE BUILDING MATERIALS - EXCEPTION. It shall be a nuisance and offense for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building or except where such building materials are part of the stock in trade of a business located in said property, or except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the City of Mapleton, and unless said construction is completed within a reasonable period of time.

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

1. REMOVAL AND IMPOUND - PEACE OFFICER - DUTY. Any peace officer acting in that capacity within the City limits of the City of Mapleton, or such other person as designated by the City Council, shall remove or cause to be removed to City Hall, or other place designated by the City Council, any personal property described in the immediately preceding paragraph and may impound and retain the same until the expense of removal, storage and impounding fee, if any, is paid, together with the amount of any fine, costs, bail or other claims of the City of Mapleton against the owner, or any other person lawfully entitled to the possession thereof the provisions of Section 15-0312 notwithstanding.

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

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

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

15-0310. **SNOW AND ICE REMOVAL - PUBLIC STREETS - NUISANCES**. It shall be a nuisance and offense for any person to allow a motor vehicle or other article of personal property to obstruct, prevent or otherwise hinder the removal of snow and ice from any public street, alley or other roadway customarily used for travel. The provisions of 15-0408 to the extent relevant, shall apply to the removal or abatement of such nuisance.

15-0311. **DUMPING - EXCAVATION - NUISANCE**.

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

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

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

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

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

6. Within the city limits of Mapleton it shall be a nuisance if the Building Inspector determines that any existing or future excavation or embankment or cut or fill on private property has become a hazard to life or limb, or endangers property, or adversely affects the safety, use, or stability of a public way or drainage channel or has a significant adverse impact on the drainage of water along its natural course resulting in the creation of stagnate water or the unnatural accumulation of water upon the property of another.

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

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

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

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

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

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

   (a) The site where the dumping may occur.

   (b) What materials may be dumped.

   (c) That the drainage plan be followed.

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

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

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

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

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

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

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

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

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

1. Any member of the City Council.

2. City Health Officer.

3. Chief of Police.

4. Superintendent of Streets.

5. Chief of the Mapleton Volunteer Fire Department

6. Building Administrator.

7. City Forester.

15-0317. **ODOR - NUISANCE**.

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

2. A Barnebey-Cheney Scentometer properly maintained, or other instrumental method as approved by the State Health Department, must be used in determination of the intensity of an odor. An odor will be considered objectionable when at least two inspectors which have been certified by the State Health Department deem that odor objectionable if the odor were present in a place of residence. An "odor concentration unit" means the maximum number of standard units of odor-free air diluting a standard unit of odorous air so that the certified inspector can still detect that objectionable odor in the diluted mixture.

3. No person may discharge into ambient air hydrogen sulfide (H2S) in concentrations that would be objectionable on land owned or leased by the complainant or in areas normally assessed by the general public. It shall be deemed a nuisance if two (2)

samples with concentrations greater than 0.05 parts per million (50 parts per billion) are sampled at least 15 minutes apart within a 60-minute period. For measuring emissions of hydrogen sulfide, an ambient air analyzer designed for monitoring hydrogen sulfide must be the method used for determining the concentrations of emissions at the point of measurement, or other instrumental methods as approved by the North Dakota State Health Department.

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

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