

ORDINANCE NO. 2024-2
AN ORDINANCE OF THE
CITY OF WALHALLA, NORTH DAKOTA,
REPEALING AND REPLACING CHAPTER TWELVE, ARTICLE 4
AUTOMOBILES/PERSONAL PROPERTY AND PROVIDING A PENALTY FOR
VIOLATION THEREOF.

Be it ordained by the City Council of the City of Walhalla, North Dakota as follows:
Section 1. Repeal and Enactment.

Chapter 12 Article 4/Automobiles/Personal Property of the City Ordinances of the City of Walhalla is hereby repealed, replaced and reenacted to read as follows:

Section 12.0401. Definitions:

The following words or terms when used herein shall be deemed to have the meaning set forth below:

- A. The term “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.
- B. The term “junk automobiles” shall include, without limitation, any motor vehicle which is not licensed for use upon the highways of the State of North Dakota for a period in excess of 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 fifteen (15) days provided that there is excepted from this definition unlicensed but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.
- C. The term “abandoned motor vehicle” means a motor vehicle as defined in Section 39-01-01 of the North Dakota Century Code, that has remained for a period of more than 48 hours on a public property illegally or lacking vital component parts, or has remained for a period of more than 48 hours on private property without the consent of the person in control of said property or in an inoperable condition such that it has no substantial potential further use consistent with its useful functions, unless it is kept in an enclosed garage or storage building.
- D. The term “abandoned personal property” shall be any personal property, which has been located on a street, alley, or other public way, or parking lot of the city, which has been removed from a location to a public parking lot, city storage or city building by proper authorities to prevent a nuisance, to safe guard the property or to avoid obstruction of the public ways.
- E. The term “building materials” shall include, without limitation, lumber, bricks, concrete, or cinder blocks, plumbing materials, electric wiring, or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, pipes, scrap metal, or any other materials used in any kind of construction.

- F. The term “inoperative” shall mean property that is not operative, not working, not functioning, and without effect, and shall include property in a condition of being junked, wrecked, wholly or partially, dismantled, discarded, abandoned, or unable to perform the function or purposes for which a vehicle was originally constructed, and further, inoperative shall mean a vehicle which has not been moved or used for its lawful purposes for a period in excess of fifteen (15) days.
- G. The term “persons” shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated whether acting by themselves or by a servant, agent, or employee, all persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, agent, servant, or employee, except as herein as otherwise provided, be equally liable as principals.
- H. The terms “trash” and “rubbish” shall include any and all forms of debris not herein otherwise classified.
- I. The words “in the conduct of a business” shall mean that the owner or occupant accumulating and storing used cans, garbage, refuse, scrap, old used cars and parts, or used building materials, is licensed by the city, county, or state to carry on such business, or has a use or sales tax permit issued by the state for such business.
- J. A nuisance is one which affects one or more individuals in the enjoyment of some right not common to the public or which at the same time affects an entire community or neighborhood or any considerable number of persons, although the extent of annoyance or damage inflicted upon the individuals may be unequal.

Section 12.0402. Storage of Trash, Rubbish, Garbage, Refuse, Junk, Junk Automobiles, Abandoned Vehicles, Scrap, Scrap Iron and Building Materials:

The storage or accumulation of trash, rubbish, garbage, refuse, junk, junk automobiles or parts thereof, abandoned vehicles, scrap, scrap iron and building materials or part thereof, upon, in or upon any private property within the City of Walhalla tends to result in blighted and deteriorated neighborhoods, the increase in criminal activity, the spread of vermin and disease, and is contrary to the public peace, health, safety and general welfare of the community and therefore, constitutes a nuisance.

Section 12.0403. Unlawful to Store or Accumulate Trash, Rubbish, Garbage, Refuse, Scrap, Scrap Iron, Junk, Junk Automobiles, and Abandoned Vehicles:

- A. It shall be unlawful and is hereby declared a nuisance for any person to store, or permit the storage or accumulation of trash, rubbish, garbage, refuse, scrap, scrap iron, junk, junk automobiles, or parts thereof, abandoned vehicles or building materials when not in the conduct of a business, on any private property in the City of Walhalla except within a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods, or junk gatherer. However, any junk dealer, junk buyer, dealer in used auto parts, or dealer in secondhand goods, or junk gatherer shall store said items in an area which shall be enclosed in a building or located behind a site fence approved by the City of Walhalla and shall be stored in a manner so as not to create an unsightly mess, deterioration of the neighborhood, increased criminal activities,

spread of vermin and disease, or any way create a situation contrary to the public peace, health, safety, or general welfare of the community.

- B. No person shall abandon any vehicle upon a street, highway, alley, or other public roadway.
- C. No person shall abandon any vehicle upon any public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.
- D. For purpose of this section, a vehicle shall be presumed to be abandoned if it is left unattended on a highway, alley, or other public roadway, for a period in excess of 48 hours; or on any public or private property without the express or implied consent of the owner or person in lawful possession or control of the property, for a period in excess of 48 hours.
- E. Any police officer who has reasonable grounds to believe that a vehicle has been abandoned, may remove the vehicle, or cause it to be removed, at the expense of the owner, to the nearest garage or other place of safety.
- F. In the event in a vehicle is not reclaimed by the registered owner or lien holder within 90 days, the laws of this State governing the disposition of abandoned property shall apply and the property shall be disposed of in accordance therewith.
- G. Excluded as nuisances are vehicles which are covered by a secured automobile cover, specifically designed to cover the individual vehicles in question, when the vehicles are not being used or worked on. Said vehicles shall be located in such an area on the vehicle owner's property and in a manner so as not to create an unsightly mess, deterioration of the neighborhood, increased criminal activities, spread of vermin and disease, or in any way create a situation contrary to the public peace, health, safety, or general welfare of the community. Where practicable storage should be out of sight or as near out of sight as possible from a public street or neighbor's yard.
- H. Further, excluded as nuisances are antique vehicles, special interest vehicles, or parts of cars owned by a collector, or car enthusiast and which are located, stored, and maintained strictly in areas within the City of Walhalla zoned with the "industrial district" designation.

Section 12.0404. Unlawful to Dismantle Automobile or Other Equipment, Except on Business Premises or on Private Property Not to Exceed Sixty (60) Days:

- A. It shall be unlawful and is declared a nuisance for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same is 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, or dealer in secondhand goods. Automobiles may be dismantled on private property, for purposes of making necessary repairs or improvements to said vehicles provided that said vehicles may not be dismantled for a period of time longer than sixty (60) consecutive days and that said dismantling shall be done in a manner so as not to

create an unsightly mess, unreasonable noise, deterioration of the neighborhood, increased criminal activities, spread of vermin and disease or in any other way create a situation contrary to the public peace, health, safety, or general welfare of the community. In all cases, vehicles dismantled on private property shall be the property of the owner or resident of the property. Vehicles which have tires or other external parts removed from them shall be covered, as specified hereinabove in this ordinance, when such vehicles are not being worked on.

- B. Automobiles may be dismantled by car enthusiast and/or collectors on private property located within industrial districts pursuant to Ordinances of the City of Walhalla. Such dismantling shall be done in a manner so as not create an unsightly mess, unreasonable noise, deterioration of the neighborhood, increased criminal activities, spread of vermin and disease or in any other way create a situation contrary to the public peace, health, safety, or general welfare of the community. In all such cases, vehicles dismantled on private property within an industrial district shall be the property of the owner or resident of the property.

Section 12-0405. Number of Vehicles at Residential Location:

No owner of a residential property zoned single family residential in the City of Walhalla shall allow more than four vehicles to be parked on a single family residential property for a period in excess of five (5) days.

Section 12-0406. Unlawful to Store Building Materials Except on Business Premises:

It shall be unlawful and is declared a nuisance 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 construction of a building in accordance with a valid building permit issued by the City of Walhalla and unless such construction is completed within a reasonable time.

Section 12-0407. City May Remove Junk, Junk Automobiles, Abandoned Vehicles or Vehicles in Excess of Four (4) on a Residential Property-Notice to Property Owner:

- A. The City may remove or cause to be removed any junk, junk automobiles, abandoned vehicles, or parts of either, from any public or private property or when the number of vehicles exceed four, located on a single family residential property, after having notified, in writing, the owner or occupant of such property of its intention to do so at least twenty (20) days prior to such removal. Such notice shall identify the property to be removed and the real property upon which it is located and shall state further that if it is not removed by the owner within twenty (20) days, it will be removed by the City and the cost thereof will be assessed against the real property described in the notice. The notice may be served personally upon the owner or occupant of the property; or may be served by regular mail addressed to the same person and to the same address as designated to receive the real estate tax notice for the property. If service of the notice is by mail, three (3) additional days shall be allowed for mailing time.
- B. If junk or junk automobiles, or parts of either, have not been removed by the owner in the time specified, it shall be removed by the City and disposed of forthwith. And

if said property is determined to be of no value other than scrap metal it shall be disposed of by the City in such a manner as to eliminate unsightly accumulation of such worthless hulks and the hazards to public health intended thereto with the least practical delay.

- C. Such removal by the City shall not excuse or relieve any person of the obligation imposed by this ordinance to keep their property free from storage or accumulation of junk, junk automobiles, abandoned vehicles or parts of either, or from having more than four vehicles on a single family residential property, nor from the penalties for violation thereof.

Section 12-0408. Opportunity for Hearing:

- A. Any owner, tenant, occupant, lessee, or agent of owner, of any property within the City, who has been ordered to remove junk, junk automobiles, or other items or materials found accumulated, or vehicles in excess of four, on a single family residential property, and in violation of this ordinance, may seek a hearing before the City council of the City of Walhalla for the purpose of making a determination whether or not the items ordered to be removed by the City are in violation of this ordinance. Any person desiring said hearing shall notify the City Auditor, in writing, within twenty (20) days of receipt of the required notice given by the City of Walhalla and shall be given an opportunity to appear before the City Council within thirty (30) days after said notification of a desire for hearing. The City shall have the burden of proving by a preponderance of the evidence that the conditions of which it complains, constitute a nuisance as set forth in this ordinance. The City Council shall either find for the owner of the property, in which case no further action may be taken by the City without the issuance of another notice, pursuant to this ordinance, which shall be issued only in the event of a material change in circumstances, or the City Council shall find for the City, in which case the owner shall have an additional thirty (30) days from the date of service upon him by mail or in person a copy of the City Council's decision in which to abate the nuisance or to file an appeal to an appropriate Court as provided by the ordinances of the City of Walhalla, North Dakota.
- B. If the owner fails, neglects, or refuses to abate the nuisance within that period of time or fails to file a Notice of Appeal, the City of Walhalla may remove or cause to be removed any junk automobile, abandoned vehicles or parts thereof, vehicles numbering more than four, from a single family residential property, building materials, trash, rubbish, or junk from any unenclosed private property and dispose of such property in accordance with the law. Such removal by the City of Walhalla shall not excuse or leave any person of the obligation imposed by this Ordinance to keep his property free from storage or accumulation of junk automobiles, abandoned vehicles or parts thereof, vehicles numbering more than four from a single family residential property, building materials, trash, rubbish, or junk nor from the penalties for violation thereof.

Section 12-0409. Cost of Removal Taxes Against Property:

- A. The cost of any removal of junk vehicles, abandoned vehicles or parts thereof, vehicles numbering more than four, from a single family residential property, or any other materials for which removal is provided under the provisions of this

ordinance, and the cost of any sanitation improvements required by this ordinance shall, where applicable, be charged back against the property from which such junk materials, junked, or abandoned vehicles, or vehicles in excess of four on a single residential property, or debris was removed.

- B. The cost of any removal or abatement of any such violations shall constitute a lien against said real property. If said lien is not adequate to cover the cost of abatement or removal of said condition the City shall have a lien for the additional costs on all real property owned or later acquired by the owner in the City.

Section 12-0410. Abatement without Prior Notice:

In the event a nuisance as defined herein shall, in the opinion of the City constitute immediate and serious danger to the health of any person or shall constitute immediate and serious danger to private or public property, the City may, without prior notice to the owner of the premises immediately enter the premises and take wherever steps are required to abate the nuisance. If such actions are reasonable in nature and undertaken in good faith, such action shall not constitute trespass or conversion. Any attempt by the City to give the owner prior notice shall not constitute a waiver of the right under this section to act without prior notice.

Section 12-0411. Other Remedies: Harboring a Nuisance:

The provisions of this ordinance shall not constitute the exclusive remedy of the City of Walhalla to abate nuisances. The City reserves the right to proceed in any court of competent jurisdiction to obtain an injunction requiring abatement of the nuisance and such remedy may be asserted without regard to the notice requirements of this ordinance and the provisions for other relief set forth herein. Moreover, the harboring or maintenance of a nuisance shall constitute an offense punishable under this ordinance as set forth below.

Section 12-0412. Junk, Junk Automobiles, and Abandoned Vehicles-Transfer to Other Property:

In the event that any junk, junk automobiles or abandoned vehicles are identifiable and are removed or transferred from one parcel of real property to another after receipt of the notice provided for in Section 12-0407 of this article, a new notice shall not be required and the identifiable junk, junk automobiles or abandoned vehicles may be removed by the City as provided in Section 12-0407 of this article and the costs assessed against the property upon which it was located at the time the notice was given.

Section 12-0413. Penalty:

Any person, firm, or corporation violating or failing to comply with any of the terms or provisions of this ordinance may be assessed a fine not to exceed \$500.00. Each day of violation shall be deemed to be a separate violation.

Section 12-0414. Conflicts:

All Ordinances or part of Ordinances in conflict herewith are hereby rescinded and repeated as far as the conflicting portions thereof are concerned.

Section 12-0415. Savings Clause:

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provisions to other persons or circumstances is not affected.

Section 12-0416. Effective Date of Ordinance:

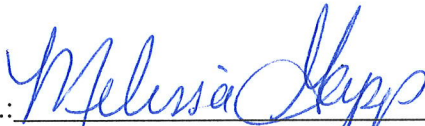
This ordinance shall be in full force and effect from and after its final adoption and publication of its title and penalty clause in the manner provided by law.

Dated this 4th day of March, 2024.

CITY OF WALHALLA

By: 
John Rock McDonald, Mayor

ATTESTED TO:

By: 
Melissa Gapp, City Auditor

First Reading: February 5, 2024, 2024

Second Reading and Passage: March 4, 2024, 2024

Published: April 24, 2024