

CHAPTER 4 – HEALTH AND SANITATION

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CHAPTER 4 – HEALTH AND SANITATION

Article 1. General Provisions

§4-101 HEALTH; REGULATIONS.

For the purpose of promoting the health and safety of the residents of the City, the Board of Health shall from time to time adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose. (Ref. 17-121 RS Neb.)

§4-102 HEALTH; ENFORCEMENT OFFICIAL.

The City Police Chief, as the quarantine officer, shall be the chief health officer of the City. It shall be his/her duty to notify the City Council and the Board of Health of health nuisances within the City and its zoning jurisdiction. (Ref. 17-121 RS Neb.)

Article 2. Nuisances

§4-201 NUISANCES; GENERALLY DEFINED.

A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

A. Injures or endangers the comfort, repose, health, or safety of others;

B. Offends decency;

C. Is offensive to the senses;

D. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the City;

E. In any way renders other persons insecure in life or the use of property; or

F. Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

(Ref. 18-1720 RS Neb.)

§4-202 NUISANCES; SPECIFICALLY DEFINED.

The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

A. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl.

B. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats or which are foul or malodorous.

C. Filthy, littered or trash-covered cellars, house yards, barnyards, stable yards, factory yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises.

D. Animal manure in any quantity which is not securely protected from flies and the elements or which is kept or handled in violation of any ordinance of the City.

E. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the City nor the dumping of nonputrefying waste in a place and manner approved by the health officer.

F. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire, metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.

G. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.

H. Any unsightly building, billboard, or other structure; any old, abandoned or partially destroyed building or structure; or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof.

I. All places used or maintained: as junk yards or dumping grounds; for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind; for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind or of any of the parts thereof; or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.

J. Stagnant water permitted or maintained on any lot or piece of ground.

K. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when said places in which said animals are confined or said premises on which said vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the City or are maintained and kept in such a manner as to be injurious to the public health.

L. Grasses, weeds, or worthless vegetation 12 inches or taller.

M. All other things specifically designated as nuisances elsewhere in this code.
(Ref. 18-1720 RS Neb.) (Amended by Ord. No. 638, 10/13/08)

§4-203 NUISANCES; ABATEMENT PROCEDURE.

A. It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in

the City to keep such real estate free of public nuisances. Whenever any owner, occupant, lessee, or mortgagee permits a nuisance to exist upon his, her, or its real estate, the Mayor or his or her designee shall in writing notify such owner, occupant, lessee, or mortgagee of such nuisance. The owner, occupant, lessee, or mortgagee shall be guilty of maintaining a nuisance upon the failure of such owner, occupant, lessee, or mortgagee to abate such nuisance within the time period set forth in the notice. The Mayor or his or her designee shall serve notice of such nuisance upon the owner, occupant, lessee, or mortgagee by personally serving him, her, or it with a copy of such notice or by serving him, her, or it by certified United States mail. If notice by personal service or by certified U. S. mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the City. In all cases, the Mayor or his or her designee shall also conspicuously post the notice on the real estate upon which the nuisance exists.

B. The owner, occupant, lessee, or mortgagee receiving the notice set forth in the foregoing subsection (A) shall have the right to appeal the notice to abate the existing nuisance by filing a notice of appeal with the City Clerk within the timeframe for appeal set forth in the notice. In no event shall the owner, occupant, lessee, or mortgagee be required to appeal the notice to abate any sooner than within 14 days of the date contained within the notice to abate the nuisance. Any such appeal shall be heard before the City Council during its next regular meeting after the appeal is filed with the Clerk, who shall give notice of the date and time of such appeal hearing to the person requesting it by personal service, certified mail, or publication. The owner, occupant, lessee, or mortgagee shall have a reasonable opportunity to present his, her, or its case before the City Council. If after consideration of all the evidence during the appeal hearing the Council shall find a nuisance exists, it shall, by resolution, order and direct the owner, occupant, lessee, or mortgagee to remedy the nuisance within five calendar days.

C. Upon failure of the owner, occupant, lessee, or mortgagee to comply with the notice to abate nuisance, or, if after the appeal hearing before the City Council as set forth in the foregoing subsection (B), the owner, occupant, lessee, or mortgagee fails to remedy within five calendar days any nuisance the Council finds to exist, the City may proceed to itself abate the nuisance. Upon completion of the City's work to abate such nuisance, a statement of the cost of such work shall be transmitted to the Council, which is authorized to bill the owner, occupant, lessee, or mortgagee or to levy the cost as a special assessment against the real estate. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments. Nothing in this subsection (C) shall prevent the City from pursuing criminal charges against the owner, occupant, lessee, or mortgagee for maintaining a nuisance.

(Ref. Neb. Rev. Stat. § 18-1720) (Amended by Ord. 625, 5/14/07)

§4-204 NUISANCES; JURISDICTION.

The Mayor, the Chief of Police, or the Mayor's designee are directed to enforce this code against all nuisances. The jurisdiction of the Mayor, Chief of Police, or Mayor's designee shall extend to, and the territorial application of this Chapter shall include, all territory adjacent to the limits of the City within two miles thereof and all territory within the corporate

limits. (Ref. Neb. Rev. Stat. §18-1720) (Amended by Ord. 625, 5/14/07)

§4-205 NUISANCES; ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL.

In cases of appeal from an action of the City Council condemning real property as a nuisance or as dangerous under the police powers of the City, the owners of the adjoining property may intervene in the action at any time before trial. (Ref. Neb. Rev. Stat. §19-710)

Article 3. Solid Waste Disposal

§4-301 SOLID WASTE DISPOSAL; DEFINITIONS

It shall be unlawful to throw or sweep into the streets, alleys, parks, or other public grounds any dirt, paper, nails, pieces of glass, refuse, waste, yard waste, garbage, or rubbish of any kind.

"Garbage" as used herein shall be defined to mean kitchen refuse, decayed waste, or anything that may decompose and become offensive to the public health.

"Rubbish" or "trash" as used herein shall be defined as discarded machinery, chips, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags, or any other litter or debris that is not an immediate hazard to the health of the residents of the City.

"Waste" as used herein shall be defined to mean cinders, ashes, plaster, brick, stone, sawdust, or sand.

"Yard waste" as used herein shall be defined to mean grass, leaves, and worthless vegetation. (Ord. 602, 12/13/04)

§4-302 SOLID WASTE DISPOSAL; SANITATION FEE.

Each customer who is served by the city solid waste service shall pay a sanitation fee as established by ordinance of the City Council. Such ordinance establishing sanitation fees shall be on file in the office of the City Clerk for public inspection during reasonable office hours. Bills for solid waste disposal shall be due and payable quarterly at the office of the Clerk and shall be rendered and collected along with and in the same manner as water and sewer bills pursuant with Section 3-301 of this code.

§4-303 SOLID WASTE DISPOSAL; LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for solid waste collection service furnished, such amount due, together with any charges in arrears, shall be considered delinquent and are hereby declared to be a lien upon the real estate for which the same was furnished. The City Clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of solid waste collection fees. It shall be the duty of the Clerk on the first day of June of each year to report to the City Council a list of all unpaid accounts due for solid waste collection, together with a description of the premises for which the same was furnished. The report shall be examined and if approved by the City Council shall be certified by the City Clerk to the County Clerk to be collected as a special tax in the manner provided by law.

Article 4. Penal Provisions

§4-401 VIOLATION; PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense, recoverable with costs. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Amended by Ord. 625, 5/14/07)

§4-402 ABATEMENT OF NUISANCE.

Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Ref. 18-1720, 18-1722 RS Neb.)

