

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 Municipality, 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 Municipal Police Chief, as the Quarantine Officer, shall be the chief health officer of the Municipality. It shall be his duty to notify the Governing Body and the Board of Health of health nuisances within the Municipality and its zoning jurisdiction. *(Ref. 17-121 RS Neb.)*

§4-103. HEALTH; STATE RULES. *(Repealed by Ord. No.547, 4/3/01)*

§4-104. HEALTH; COUNTY HEALTH BOARD. It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the Municipality.

Article 2. Garbage Disposal

§4-201. GARBAGE; DEFINED. The term "garbage" as used herein shall be defined to mean kitchen refuse, decayed waste, dead animals, or anything that may decompose and become offensive to the public health.

§4-202. RUBBISH; DEFINED. The terms "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 Municipality.

§4-203. WASTE; DEFINED. The term "waste" as herein defined shall mean cinders, ashes, plaster, brick, stone, sawdust, or sand.

§4-203.1. SOLID WASTE DISPOSAL; YARD WASTE; DEFINED. The term "yard waste" shall mean grass and leaves. (*Ref. 13-2016.01 RS Neb.*) (*Ord. No. 450, 7/6/95*)

§4-204. GARBAGE; TRASH AND WASTE. It shall be unlawful for any person to keep in, on, or about any dwelling, building, or premise, or any other place in the Municipality, decayed vegetable or animal substance, garbage, or refuse matter of any kind that may be injurious to the public health or offensive to the residents of the Municipality unless the same is kept in receptacles not exceeding a thirty (30) gallon capacity and as nearly air-tight as may be practical. 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, or rubbish of any kind. No person may permit garbage, rubbish, waste, or refuse to collect and all persons shall remove the same from their property within twenty-four (24) hours after being notified to do so by the Municipal Police Chief who shall represent the Board of Health. Any person having garbage, rubbish waste, or refuse that is subject to decay or fermentation within a short period of time shall be required to place the same in a standard garbage can with a tight cover, or a durable plastic container that is securely tied at its opening. All persons shall have the contents of their garbage cans removed at least once a week. (*Ref. 19-2106 RS Neb.*)

§4-205. GARBAGE: ADDITIONAL GARBAGE CANS. The Board of Health shall have the authority to require the owners, managers or renters of restaurants, hotels, meat markets, stores, retail businesses and other places where garbage accumulates in quantities to furnish a sufficient number of receptacles to take care of such accumulations. Failure to obey any order or regulation of the Board of Health in connection with the administration or enforcement of the provisions of this Article shall be construed as a violation hereof.

§4-206. DEAD ANIMALS. All dead animals shall be immediately removed and buried by the owner of such animals; and if the owner of such animal cannot be found within two

(2) hours after discovering the same, then such animal shall be removed by and at the expense of the Municipality. Dead animals shall not be buried within the corporate limits of the Municipality, nor within one (1) mile thereof, nor in or above the course of ground water that is used for drinking purposes by the Municipality or its inhabitants. Such animals may, however, be buried in the Municipal Dumping Ground. (*Ref. 17-114, 17-123 RS Neb.*)

§4-207. GARBAGE, RUBBISH AND WASTE; DEPOSIT ON OTHER PREMISES. It shall be unlawful for any person to willfully, maliciously, or negligently place or throw upon the premise of another any garbage, rubbish, waste or other matter to the annoyance of the owner of occupant thereon. (*Ref. 19-2106, 28-523 RS Neb.*)

§4-208. GARBAGE AND REFUSE COLLECTION; AUTHORITY. The Governing Body for the City may provide for the collection and removal of garbage or refuse found upon any lot or land within its corporate roads, or alleys abutting such lot or land which constitutes a public nuisance. The City may require the owner, duly authorized agent, or tenant of such lot or land to remove the garbage or refuse from such lot or land and streets, roads, or alleys. (*Ref. 18-1303 RS Neb.*) (*Ord. No. 366, 12/6/88*)

§4-209. GARBAGE AND REFUSE COLLECTION; NOTICE; REMOVAL. Notice that removal of garbage or refuse is necessary shall be given to each owner or owner's duly authorized agent and to the tenant if any. Such notice shall be provided by personal service or by certified mail. After providing such notice, the City through its proper offices shall, in addition to other proper remedies, remove the garbage or refuse, or cause it to be removed, from such lot or land and streets, roads, or alleys. (*Ref. 18-1303 RS Neb.*) (*Ord. No. 366, 12/6/88*)

§4-210. GARBAGE AND REFUSE COLLECTION: NUISANCE. If the Mayor declares that the accumulation of such garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the City shall remove the garbage or refuse, or cause it to be removed, from such lot or land within forty-eight hours after notice by personal service or following receipt of a certified letter in accordance with section 4-209 if such garbage or refuse has not been removed. (*Ref. 18-1303 RS Neb.*) (*Ord. No. 366, 12/6/88*)

§4-211. GARBAGE AND REFUSE COLLECTION; LIEN. Whenever a City removes any garbage or refuse, or causes it to be removed, from any lot or land pursuant to this article, it shall, after a hearing conducted by the governing board, assess the cost of the removal against such lot or land. (**Ref. 18-1303 RS Neb.**) (**Ord. No. 366, 12/6/88**)

Article 3. Nuisances

§4-301. 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:

1. Injures or endangers the comfort, repose, health, or safety of others,
2. Offends decency,
3. Is offensive to the senses,
4. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the Municipality.
5. In any way renders other persons insecure in life or the use of property, or
6. 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.*)

§4-302. 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:

1. 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.
2. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.
3. 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.
4. 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 Municipality.
5. 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 Municipality, nor the dumping of non-putrefying waste in a place and manner approved by the health officer.
6. 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 is kept in covered bins or galvanized iron receptacles.
7. 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, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.

8. Any unsightly building, billboard, or other structure, or 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.
9. All places used or maintained as junk yards, or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind, or 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.
10. Stagnant water permitted or maintained on any lot or piece of ground.
11. 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 Municipality, or are maintained and kept in such a manner as to be injurious to the public health.
12. All other things specifically designated as nuisances elsewhere in this Code. (*Ref. 18-1720 RS Neb.*)

§4-303. NUISANCES; ABATEMENT PROCEDURE. (A) It shall be the duty of every owner, occupant, lessee, or mortgagee of any real estate within the Municipality or zoning jurisdiction of the Municipality to keep such real estate free of nuisances. Except to the extent that conflicting procedures are otherwise provided, the procedures in this section shall apply to abatement of nuisances.

(B) Upon determination by the Governing Body, City Administrator, Board of Health or designated official, hereafter Municipal Official or Board, that the owner, occupant, lessee, or mortgagee of any such real estate has failed to keep the real estate free of nuisances, notice to abate and remove such nuisance and notice of the right to a hearing before the Governing Body and the manner in which it may be requested may be given to each owner, occupant, lessee, or mortgagee or their duly authorized agent, if any, by personal service or by certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the real estate upon which the nuisance is to be abated

and removed. The notice shall describe the condition as found by the Municipal Official or Board and state that the condition has been declared a nuisance and must be remedied at once.

(C) If within 5 days after receipt of such notice, publication or posting, whichever is applicable, the owner, occupant, lessee, or mortgagee of the real estate does not request a hearing with the Governing Body or fails to comply with the order to abate and remove the nuisance, the Municipality may have such work done.

(D) If within 5 days after receipt of such notice, publication or posting, whichever is applicable, the owner, occupant, lessee, or mortgagee requests a hearing, verbally or in writing, with the Governing Body, the Governing Body shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner, occupant, lessee, or mortgagee to appear before the Governing Body to show cause why such condition should not be found to be a nuisance and remedied. The notice shall be given not less than 5 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the Governing Body shall hear all objections made by the owner, occupant, lessee, or mortgagee and shall hear evidence submitted by the Municipal Official or Board. If after consideration of all the evidence, the Governing Body finds that the condition is a nuisance, it shall, by resolution, order and direct the owner, occupant, lessee, or mortgagee to remedy the nuisance at once; provided, the party or parties may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the Governing Body shall be stayed. If the owner, occupant, lessee, or mortgagee refuses or neglects to promptly comply with the order to abate and remove the nuisance, the Municipality may have such work done.

(E) The costs and expenses of any such work shall be paid by the owner, occupant, lessee, or mortgagee. Upon completion of the work by the Municipality, a statement of such costs and expenses of such work shall be transmitted to the Governing Body, which is authorized to bill the property owner, occupant, lessee, or mortgagee, or to levy and assess the costs and expenses of the work upon the real estate as a special assessment against the land. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.

(Ref 18-1720 RS Neb.) (Amended by Ord. No. 550, 11/6/01, Ord. No. 623, 8/6/13)

§4-304. NUISANCES; JURISDICTION. The Mayor and Municipal Police of the Municipality are directed to enforce this Municipal Code against all nuisances. The jurisdiction of the Mayor, Municipal Police, and court shall extend to, and the territorial application of this Chapter shall include, all territory adjacent to the limits of the Municipality within one (1) mile thereof and all territory within the corporate limits. *(Ref. 18-1720 RS Neb.)*

§4-305. NUISANCES; ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL. In cases of appeal from an action of the Governing Body condemning real property as a nuisance or as dangerous under the police powers of the Municipality, the owners of the adjoining property may intervene in the action at any time before trial. *(Ref. 19-710 RS Neb.) (Ord. No. 326, 11/5/85)*

Article 4. Pollution

§4-401. AIR POLLUTION; PROHIBITED. It shall be unlawful for any person, firm, or corporation to permit the emission of smoke from any source that is injurious or offensive to the residents of the Municipality in the judgment of the Board of Health. Air shall be considered to be polluted when the discharge into the open air of dust, fumes, gases, mist, odors, smoke, or any combination thereof is of such character and in a quantity which to any group of persons interferes with their health, repose, or safety, or causes severe annoyance or discomfort or is offensive and objectionable to normal persons and causes injury to real and personal property of any kind. The standards for air pollution established or adopted by the State of Nebraska, shall be presumptive evidence as to when the air is deemed to be polluted under this Section. It is hereby unlawful for any such person, firm, or corporation to permit or cause the escape of the aforesaid nuisances and the escape of the said dust, fumes, gases, mists, odors, and smoke is hereby declared to be a nuisance and shall be summarily abated upon written notice by the Board of Health to the violator. Such abatement may be in addition to the penalty for air pollution in the Municipality. (*Ref. 18-1720. 28-1321 RS Neb.*)

§4-402. WATER POLLUTION; PROHIBITED. It shall be unlawful for any person, firm, or corporation to obstruct or impede without legal authority any river or collection of water, or to corrupt and render unwholesome or impure any watercourse, stream, or other water. The standards for water quality established or adopted by the State of Nebraska shall be presumptive evidence as to when the water is deemed to be polluted under this Section. Such a corruption of the water in or about the Municipality shall constitute a nuisance and shall be summarily abated upon written notice to the violator by the Board of Health. The said abatement may be in addition to the penalty for water pollution. (*Ref. 18-1720, 28-1321 RS Neb.*)

Article 5. Penal Provision

§4-501 VIOLATION: PENALTY. *(Repealed by Ord. No. 587, 1-08-05. See §12-101)*

§4-502. ABATEMENT OF NUISANCE. Whenever a nuisance exists as defined in this Chapter, the Municipality 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 part of the judgment in the case. *(Ref. 18-1720, 18-1722 RS Neb.)*