

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 City hereby authorizes the Southeast District Health Department to exercise control over the health matters covered by these regulations and as the Quarantine Officer to enforce the same within the jurisdiction of the City. (*Ord 984, 3-23-2020*)

§4-103 HEALTH; FURTHER ASSISTANCE OF THE CITY:

The City agrees to assist the Southeast District Health Department in the enforcement of the regulations, to the extent of the City's ability to provide such assistance, and the City shall cause its agencies and departments to take all reasonable steps to fulfill and carry out the purposes of this City Code. (*Ord 984, 3-23-2020*)

Article 2. Garbage Disposal

§4-201 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 appropriate metal or plastic containers that are 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. *(Ref 19-2106 RS Neb)*

§4-202 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 547, 9/26/88)*

§4-203 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 547, 9/26/88)*

§4-204 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 4-203 if such garbage or refuse has not been removed. *(Ref 18-1303 RS Neb) (Ord 547, 9/26/88)*

§4-205 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 547, 9/26/88)*

Article 3. Nuisances

§4-301 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-putrifying 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 be 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 disassembling 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*)

§4-302 NUISANCES; ABATEMENT PROCEDURE:

(A) The owner or occupant of any real estate within the corporate limits or zoning jurisdiction of the municipality shall 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 Board of Health or designated official that the owner or occupant 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 shall be given to each owner or owner's duly authorized agent and to the occupant, 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 municipality 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 Board of Health or designated official and state that the condition has been declared a nuisance and must be remedied at once.

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

(D) If within five days after receipt of such notice or publication or posting, whichever is applicable, the owner or occupant requests in writing a hearing 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 or occupant 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 7 nor more than 14 days before the time of the hearing. If there is no legal newspaper in or of general circulation in the municipality, then the municipality shall publish such notice or advertisement in a legal newspaper in or of general circulation in the county in which the municipality is located. If there is no legal newspaper in or of general circulation in such county, then the municipality shall publish such notice or advertisement by posting a written or printed copy thereof in each of three public places in the municipality for the

same period of time the municipality is required to publish the notice or advertisement in a legal newspaper. Upon the date fixed for the hearing and pursuant to the notice, the governing body shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health or designated official. 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 or occupant to remedy the nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order to abate and remove the nuisance, the governing body may have such work done.

(E) The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the municipality may either:

(1) Levy and assess the costs and expenses of the work upon the real estate so benefitted as a special assessment in the same manner as other special assessments for improvements are levied and assessed; or

(2) Recover in a civil action the costs and expenses of the work upon the real estate and the adjoining streets and alleys. (*Ref 18-1720 RS Neb*) (*Amended by Ords 928, 3/14/2016; 952, 3/12/2018*)

§4-303 NUISANCES; JURISDICTION:

The Mayor and Chief of Police of the Municipality are directed to enforce this Municipal Code against all nuisances. The jurisdiction of the Mayor, Chief of 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 two (2) miles thereof and all territory within the corporate limits. (*Ref 18-1720 RS Neb*)

§4-304 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 520, 10/12/87*)

§4-305 NUISANCES; DEAD OR DISEASED TREES:

(A) (1) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets or within the corporate limits of the city or within its one-mile zoning jurisdiction.

(2) Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any. The city shall establish the method of notice by ordinance. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five days after the receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove the nuisance by filing a written appeal with the office of the City Clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by an elected or appointed officer as designated in the

ordinance. The hearing officer shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have the work done to abate and remove the dead or diseased trees. If the owner or occupant of the lot or piece of ground does not request a hearing with the city within five days after receipt of such notice or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The city may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefitted as a special assessment. (*Neb RS 17-555*)

(B) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees on private property within the corporate limits of the city or within its one-mile zoning jurisdiction. The provisions in division (A) (2) shall apply to such nuisances. For the purpose of carrying out the provisions of this section the city police shall have the authority to enter upon private property to inspect the trees thereon. (*Amended by Ords 932, 3/14/2016 and 938, 3/13/2017*)

Article 4. Penal Provisions

§4-401 VIOLATION; PENALTY:

(1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00). A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) 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 17-505, 18-1720, 18-1722 RS Neb) (Amended by Ord 756, 8/28/00)*

§4-402 ABATEMENT OF NUISANCE: *(Repealed by Ord 756, 8/28/00)*