

HEALTH AND SANITATION
Article 3. Nuisances

All of Article 3 amended and enacted by Ord. 1967, 2/16/2016.

§4-301 NUISANCE REGULATIONS; MUNICIPAL AUTHORITY. The Governing Body may make laws, rules and regulations for the protection of the public, the security of the public health, and for the prevention, abatement, and removal of nuisances within the corporate City Limits and within its two-mile zoning jurisdiction. (Ref. 16-230; 16-231; 16-240; 16-246; 81-1,541; 18-1720; 60-1901 RS Neb.)

§4-302 NUISANCES REGULATIONS; DEFINITIONS. For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires (Ref. 16-230; 16-231; 16-240; 18-1,720; 60-1901 RS Neb.):

(1) **Nuisances, General:** Any condition or thing that (a) Injures or endangers the comfort, repose, health, or safety of others, or (b) Offends decency, or (c) Offends the senses, or (d) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway, or (e) Renders other persons insecure in life or the use of property, or (f) Essentially interferes with the comfortable enjoyment of life and property, or (g) Tends to depreciate the value of the property of others.

(2) **Nuisances, Specific:**

(a) **Abandoned Vehicle:** Any motor vehicle or trailer parked or left upon any lot or piece of ground, owned by another person or corporation, for more than seven (7) days without the expressed permission of the owner, occupant, lessee, mortgagee or person in possession, charge or control of said lot or piece of ground.

(b) **Litter:**

(i) **Garbage:** Any rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables.

(iii) **Junk:** Any old and/or scrap metal or rubber; or any machine, appliance, in-door furnishing, vehicle, trailer or part(s) thereof which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of

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time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste or wreckage.

(iv) Refuse: Any odorous, putrid, unsound or unwholesome grain, meat, beef, pork, fish, fowl, hides, skins, blood, feathers, vegetable matter, or the whole or any part of any dead animal, creosote, ashes, blood, offal, decayed matter, solid market and industrial wastes, oils, fuels, tars, or any other unwholesome substance.

(v) Rubbish: Any non-putrescible solid waste material, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, rags, cardboard, metal cans, yard clippings, tree limbs or branches, mattresses or other bedding material, and demolition debris such as metal shards, plaster, old lumber, plaster, broken glass, plastic, brick, crockery, stone, or cement.

(vi) Waste Material: Any material appearing in a place or in a context not associated with that material's function or origin.

(c) Stagnant water.

(d) Unregistered vehicle: Any motor vehicle or trailer not registered in accordance with the laws of the State of Nebraska. This does not include any vehicle kept within a fully enclosed structure or any vehicle upon any commercially zoned lot or piece of ground which is owned by a commercial enterprise operating in a lawful manner exclusively for the selling and/or repairing of vehicles.

(e) Worthless Vegetation: Any uncontrolled or uncultivated grasses twelve inches (12") or more in height and/or weeds in the Municipality including, but not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*) (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

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(f) Dilapidated structures: Any building not in conformance with the City's Property Maintenance Code, which requires substantial remediation to conform to such Code or, when remediation is deemed impractical, must be demolished as the only means of abatement.

(3) Sewage System: Any pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.

(4) Treatment Works: Any plant or other works used for the purpose of treating, stabilizing, or holding wastes. (Amended by Ord. No. 1982, 9/6/16)

§4-303 NUISANCE CONTROL AUTHORITY; ESTABLISHED. With oversight of the City Administrator, the City Police, Parks and Recreation, and Public Works Departments shall constitute the Nuisance Control Authority of the Municipality.

§4-303.01 NUISANCE CONTROL AUTHORITY; RESPONSIBILITIES. The Nuisance Control Authority shall be responsible for:

- (1) Identifying nuisances described within this Article;
 - (2) Enforcing nuisance laws and regulations of the Municipality and the State within the corporate City Limits and within the City's two-mile zoning jurisdiction;
 - (3) Citing violators of said nuisance laws and regulations;
 - (4) Coordinating with the City attorney for the prosecution of violations;
 - (5) On order, abating, removing, collecting and disposing of all materials which constituted the nuisance; and
 - (6) Maintaining related records including costs incurred.
- (Ref. 16-230; 16-240; 16-246; 18-1720 RS Neb.)

§4-303.02 NUISANCE CONTROL AUTHORITY; NUISANCE CONTROL OFFICERS. Police officers, community service officers, the parks and recreation director, the building inspector and the street supervisor shall have the responsibilities and authorities of nuisance control officers within the corporate City Limits and within the City's two-mile zoning jurisdiction. All nuisance control officers shall have the authority to enforce this Article. The chief of police shall ensure a certified law enforcement officer trains community service officers, the parks and recreation director, the building inspector and the street supervisor in the policies and procedures for issuance of citations. (Ref. 16-230; 16-240; 16-246; 18-1720; 18-1757 RS Neb.)

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(Amended by Ord. No. 1982, 9/6/16)

§4-303.3 NUISANCE CONTROL AUTHORITY; ACCESS. To fulfill the requirements of this Article, nuisance control officers and other employees of the Public Works Department shall:

(1) Have access to and upon any and all streets, roadways, highways, alleys, sidewalks, parks, right-of-ways, and all other public or City-owned properties within the corporate City Limits and within the City's two-mile zoning jurisdiction; and/or

(2) Obtain permission of the owner, occupant, lessee, mortgagee or person in possession, charge or control of any lot or piece of ground where a nuisance may be found to be on such lot or piece of ground; and/or

(3) Obtain permission of the person in possession, charge or control of any lot or piece of ground adjacent to or near any place where a nuisance may be found, for the purposes of inspection; and/or

(4) Obtain a Court order to enter upon and inspect a lot or piece of ground with probable cause that a nuisance exists upon such lot or piece of ground; and/or

(5) Obtain a Court order to abate and remove or cause the abatement and removal of a nuisance from a lot or piece of ground.

(Ref. 16-230; 16-240; 16-246; 18-1720 RS Neb.)

§4-304 NUISANCES; PREVENTION; RESPONSIBILITY. It shall be the responsibility of every owner, occupant, lessee, mortgagee or person in possession, charge or control of any lot or piece of ground in the Municipality or within the City's two-mile zoning jurisdiction to keep such lot or piece of ground and the adjoining streets and alleys free of nuisances. (Ref. 16-230 RS Neb.)

§4-305 NUISANCES; CORPORATE CITY LIMITS; DECLARATION. It shall be unlawful and a nuisance for any owner, occupant, lessee, mortgagee or person in possession, charge or control of any the lot or piece of ground to permit or maintain (1) Litter; (2) Stagnant water; or (3) Worthless vegetation upon any lot or piece of ground and/or upon adjoining streets and alleys within the corporate City Limits. Nothing herein shall prevent the temporary retention of litter in receptacles used for such purposes or the transportation and dumping of non-putrefying waste in a place and manner approved by the Municipality. (Ref. 16-230; 16-240; 16-246; 18-1720 RS Neb.)

§4-306 NUISANCES; TWO-MILE ZONING JURISDICTION; DECLARATION. It shall be unlawful and a nuisance for any owner, occupant, lessee, mortgagee or person in possession, charge or control of any lot or piece of ground to permit or maintain (1) Litter or (2) Stagnant

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water upon any lot or piece of ground within the City's two-mile zoning jurisdiction but outside the corporate City Limits. Nothing herein shall prevent the temporary retention of litter in receptacles used for such purposes or the transportation and dumping of non-putrefying waste in a place and manner approved by the Municipality. (Ref. 16-230; 16-240; 16-246; 18-1720 RS Neb.)

§4-307 NUISANCES; UNREGISTERED VEHICLES; DECLARATION. It shall be unlawful and a nuisance for any owner, occupant, lessee, mortgagee or person in possession, charge or control of any lot or piece of ground to permit or maintain any unregistered vehicle to remain on such lot or piece of ground within the corporate City Limits and/or within its two-mile zoning jurisdiction for more than thirty (30) days.

§4-308 NUISANCES; ABANDONED VEHICLES; DECLARATION. It shall be unlawful and a nuisance for any vehicle owner or operator to park or leave any unattended vehicle upon a lot or piece of ground, not their own, for more than seven (7) days without the expressed permission of the owner, occupant, lessee, mortgagee or person in possession, charge or control of said lot or piece of ground within the corporate City Limits and within its two-mile zoning jurisdiction. It shall also be unlawful to leave any vehicle upon such lot or piece of ground after permission of the owner, occupant, lessee, mortgagee or person in possession, charge or control of said lot or piece of ground is terminated. The City, at the request any owner, occupant, lessee, mortgagee or person in possession, charge or control of any the lot or piece of ground may tow and process any such vehicle as an abandoned vehicle, to include attempting to notify the last registered owner, after verifying it has been on the lot or piece of ground for more than seven (7) days. (Ref. 60-1901 RS Neb.) (Ord. No. 1969, 3/15/16)

§4-309 NUISANCES; DUMP, DRAIN; WATERS; PROHIBITED. It shall be unlawful for any person, association, or corporation to place or allow to be placed any litter or discarded worthless vegetation into the Big Blue River, Walnut Creek, Timber Creek, Indian Creek, or any of their tributaries, or in any drain, ditch, sewer system, or treatment works which discharges said materials or any part thereof into any of such waters. It shall be unlawful to place, leave, or permit any such material to escape in such manner that it or any part of it is through the action of the elements or otherwise carried into any such waters. (Ref. 16-230; 18-1720; 37-555 RS Neb.)

§4-310 NUISANCES; ABATEMENT OF NUISANCE; ORDER TO ABATE; NOTICE.

(1) Any nuisance control officer may issue a written order to abate and remove a nuisance to each owner, occupant, lessee,

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mortgagee or person in possession, charge or control of the lot or piece of ground upon which a nuisance is found.

(2) Such notice may be made by personal service or certified mail conspicuously marked as to its importance.

(3) 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 lot or ground upon which the nuisance is to be abated and removed.

(4) Any such notice shall include:

(a) The address and/or legal description of the lot or piece of ground;

(b) The description of the nuisance;

(c) The right and responsibility of any owner, occupant, lessee, mortgagee or person in possession, charge or control of the lot or piece of ground upon which the nuisance is found to request a hearing by the City; if such owner, occupant, lessee, mortgagee or person in possession, charge or control of the lot or piece of ground desires to appeal; within five (5) days after receipt of such notice or publication or posting, whichever is applicable; and

(d) If the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to comply with the order to abate and remove the nuisance, within five (5) days, the city may have such work done with the costs and expenses of any such work to be paid by the owner.

(Ref. 16-230 RS Neb.)

§4-311 NUISANCES; ABATEMENT OF NUISANCE; APPEAL HEARING PROCESS AND RESPONSIBILITIES.

(1) Within five (5) days after receipt of a notice to abate and remove a nuisance by certified mail, personal service, or publication or posting; whichever is applicable; each owner, occupant, lessee, mortgagee or person in possession, charge or control of the lot or piece of ground may request a hearing with the City to appeal the decision to abate or remove a nuisance. This request for a hearing must be filed, in writing, with the office of the city clerk.

(2) The city clerk shall maintain the original written appeal for the record and immediately deliver copies of the appeal to the mayor, members of the Public Safety Committee, city administrator, city attorney, and chief of police.

(3) If the written request was filed within five (5) days of notice, the city administrator, as hearing officer, shall arrange and convene a public hearing within fourteen (14) days after the filing of the request.

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(4) The mayor shall form the Hearing Board comprised of no less than three (3) members of the governing Body to include: Himself/Herself and at least two (2) members of the Public Safety Committee.

(5) The Hearing will be opened with a majority vote of the Hearing Board.

(6) The city administrator shall serve as the hearing officer and conduct the hearing. The city attorney shall present the City's evidence to the Board describing the nuisance(s). After such presentation, the appellant, or the appellant's representative, may present evidence to the contrary. The City and the appellant may call and cross-examine witnesses in support of or in opposition to any testimony or evidence presented. The hearing officer may limit the presentation of extraneous information.

(7) The Hearing will be closed with a majority vote of the Hearing Board. Once closed, the Hearing Board shall immediately deliberate, in open session, to:

(a) Find the conditions upon the lot or piece of ground to be a nuisance, as described by the City, and in violation of City Ordinance; or

(b) Find the conditions upon the lot or piece of ground to be a nuisance, as described by the City, excluding specific items found not to constitute a nuisance, and in violation of City Ordinance; or

(c) Find the conditions upon the lot or piece of ground not to be a nuisance, as described by the City, and therefore not in violation of City Ordinance.

(8) Upon concluding deliberations, the Hearing Board shall immediately vote and render its finding in open session.

(9) If the Hearing Board finds the conditions upon the lot or piece of ground to be a nuisance and in violation of City Ordinance, in part or whole, the city administrator may direct:

(a) The Parks and recreation Department to abate and remove nuisances consisting only of worthless vegetation, with any and all associated costs incurred by the City for such abatement, removal and disposal to be paid by the violator, as billed by the City; or

(b) The city attorney to seek an order from the Court permitting the City to abate and remove or cause the abatement and removal of said nuisance to include the collection and disposal of all materials which constitute said nuisance.

(10) The City's hearing process is independent of any subsequent or concurrent civil or criminal court action which the City may initiate.

(Ref. 16-230 RS Neb.)

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§4-312 NUISANCES; EMERGENCY/IMMINENT THREAT; ABATEMENT OF NUISANCE; CITY ADMINISTRATOR; RESPONSIBILITIES.

(1) When a nuisance presents or may present an imminent threat to the life, health, or safety of any person or persons, as determined by the city administrator, the city administrator shall direct the city attorney to petition the Court for an order directing the City to immediately abate and remove or cause the immediate abatement and removal of said nuisance to include the collection and disposal of all materials which constitute said nuisance, with any and all associated costs incurred by the City for such abatement, removal and disposal to be paid by the violator, as billed by the City.

(2) Upon receipt of the order, the city administrator shall direct the Nuisance Control Authority to immediately abate and remove or cause the immediate abatement and removal of said nuisance to include the collection and disposal of all materials which constitute said nuisance.

(3) The Public Works Department shall submit a bill to the owner and/or occupant of the lot or piece of ground for the costs of abating and removing nuisances from such lot or piece of ground or upon adjoining streets and alleys.

(4) If the above costs are unpaid for two months after such work is done, the city attorney shall:

(a) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited as a special assessment; or
(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground.

(Ref. 16-230; 16-231; 16-240; 16-246; 18-1720 RS Neb.) (Ord. No. 369, 3/15/16)

§4-313 NUISANCES; ABATEMENT OF NUISANCE; CITY ATTORNEY RESPONSIBILITIES. The city attorney shall represent the City's interests in all matters brought before any Hearing Board or Court. (Ref. 16-230; 16-246; 18-1720 RS Neb.)

§4-313.01 NUISANCES; ABATEMENT OF NUISANCE; CITY ATTORNEY RESPONSIBILITIES; APPEAL HEARING. The city attorney shall be responsible for presenting the City's evidence to the City's Hearing Board. This includes the notification and preparation of witnesses.

§4-313.02 NUISANCES; ABATEMENT OF NUISANCE; CITY ATTORNEY RESPONSIBILITIES; PROSECUTION. The city attorney shall be responsible for prosecuting violations of nuisance laws and regulations of the Municipality within the corporate City Limits and within the City's two-mile zoning jurisdiction, should the City choose to pursue such action. Such prosecution shall be

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independent of any subsequent or concurrent civil court action which the City may initiate.

§4-313.03 NUISANCES; ABATEMENT OF NUISANCE; CITY ATTORNEY RESPONSIBILITIES; COURT ORDER. Upon determination by the Court of a nuisance, the city attorney shall seek an order from the Court requiring the City to abate and remove or cause the abatement and removal of said nuisance, to include the collection and disposal of all materials which constitute said nuisance, with any and all associated costs incurred by the City for such abatement, removal and disposal to be paid by the violator, as billed by the City. (Ref. 16-230 RS Neb.)

§4-313.04 NUISANCES; ABATEMENT OF NUISANCE; CITY ATTORNEY RESPONSIBILITIES; RECOVERY OF COSTS. If the costs listed in subsection 4-313.03, as billed by the City, are unpaid for two months after such work is done, the city attorney shall:

- (1) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited as a special assessment; or
- (2) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(Ref. 16-230 RS Neb.) (Ord. No. 369, 3/15/16)

§4-314 NUISANCES; ABATEMENT OF NUISANCE; PARKS AND RECREATION DEPARTMENT RESPONSIBILITIES. The Parks and Recreation Department shall:

- (1) At the direction of the city administrator, abate and remove or cause the abatement and removal of worthless vegetation nuisances.
- (2) Dispose of worthless vegetation so removed at a location designated by the city administrator.
- (3) Record and submit all costs incurred by the Department to the Department of Public Works for all work and expenses associated with the abatement of any nuisance.
- (4) Maintain related records, including costs incurred, for no less than five (5) years.

§4-315 NUISANCES; ABATEMENT OF NUISANCE; PUBLIC WORKS DEPARTMENT RESPONSIBILITIES. The Public Works Department shall:

- (1) At the direction of the city administrator, abate and remove or cause the abatement and removal of worthless vegetation nuisances.
- (2) Dispose of worthless vegetation so removed at a location designated by the city administrator.
- (3) Upon Court order permitting the City to abate and remove a nuisance and to dispose of the materials which constitute a

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nuisance, and at the direction of the city administrator, abate and remove or cause the abatement and removal of nuisances.

(4) Collect and dispose or cause the collection and disposal of all materials which constituted the nuisances.

(5) Consolidate all costs incurred by the City which are associated with the abatement and removal of any nuisance.

(6) Submit a bill to the owner and/or occupant of the lot or piece of ground for the costs of abating and removing nuisances from such lot or piece of ground or upon adjoining streets and alleys.

(7) Receive and submit any payment made by the owner of the lot or piece of ground to the City Clerk's Office.

(8) Should the owner and/or occupant fail to pay the costs of abating and removing nuisances, submit said bill and a report of such failure to pay to the City Administrator.

(9) Maintain related records, including costs incurred, for no less than five (5) years. (Amended by Ord. No. 1982, 9/6/16)

§4-316 NUISANCES; ABATEMENT OF NUISANCE; POLICE DEPARTMENT RESPONSIBILITIES. The Police Department shall:

(1) Document the Department's observations related to any noted nuisances.

(2) Document the City's abatement of any nuisance by photograph and report.

(3) Maintain related records, including costs incurred, for no less than five (5) years.

§4-317 NUISANCES; ABATEMENT OF NUISANCE; CITY CLERK RESPONSIBILITIES. The City Clerk shall:

(1) Upon request of any owner, occupant, lessee, mortgagee or person in possession, charge or control of the lot or piece of ground notified of a nuisance; provide such person a form upon which to make a written request for a hearing.

(2) Receive and maintain the original written request for a hearing from any owner, occupant, lessee, mortgagee or person in possession, charge or control of the lot or piece of ground notified of a nuisance.

(3) Confer with the city administrator to determine if such written request was submitted within five (5) days of notice.

(a) If the written request for a hearing was submitted within five (5) days of notice, immediately deliver copies of the appeal to the mayor, members of the Public Safety Committee, city administrator, city attorney, and chief of police.

(b) If the written request for a hearing was not submitted within five (5) days of notice, immediately confer with the city administrator who shall direct notification of such owner, occupant, lessee, mortgagee or person in possession, charge or

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control of the lot or piece of ground that said request failed to meet the requirements of law.

(4) Make and retain records of any hearing related to any nuisance held by the City.

(5) Receive and record payments related to the City's abatement of any nuisance received from the owner of the lot or piece of ground through the Public Works Department.

§4-318 NUISANCES; ABATEMENT OF NUISANCE; MATERIALS COLLECTED.

(1) Materials constituting a nuisance which have been abated, or removed, or collected, or disposed of by the City through the abatement process need not be retained by the City nor returned to any owner, occupant, lessee, mortgagee or person in possession, charge or control of the lot or piece of ground.

(2) No owner, occupant, lessee, mortgagee or person in possession, charge or control of the lot or piece of ground shall have claim to any materials which have been abated, or removed, or collected, or disposed of by the City through the abatement process.

(3) Should the City redeem any value of any nuisance item, such proceeds shall be applied to the cost of the abatement, removal, collection and disposal of a nuisance.

(4) No City employee shall directly or indirectly profit from, take ownership of, or make personal use of any materials collected or disposed of by the abatement of any nuisance from any lot or piece of ground in the Municipality or within the City's two-mile zoning jurisdiction.

(5) Should an owner, occupant, lessee, mortgagee or person in possession, charge or control of the lot or piece of ground regain control or ownership of any materials collected and/or disposed of through the abatement process, and return such materials to the original lot or piece of ground, such materials shall immediately constitute a nuisance and a separate violation.