

## Article 4 – Nuisances

(Ord. No. 439, 6/13/91) (Am. by Ord. Nos. 519, 5/11/95; 569, 5/8/97; 704, 7/14/05)

### SECTION 3-401: PUBLIC NUISANCES PROHIBITED

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. (Neb. Rev. Stat. §17-207, 18-1720)

### SECTION 3-402: WEEDS, GRASSES AND LITTER; DEFINITIONS

A. The terms "weeds, grasses or worthless vegetation" shall mean any weed or grass growth of more than 12 inches in height. Weeds shall include, but not be limited to, bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant and ragweed.

B. The term "litter" shall include, but not be limited to:

1. Trash, rubbish, refuse, garbage, paper, rags and ashes;
2. Wood, plaster, cement, brick or stone building rubble;
3. Offal and dead animals or any foul, decaying, or rotting substance, including stagnant water.
4. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility or serviceability as such through deterioration, dismantling or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded or thrown away or left as waste, wreckage or junk;
5. Any motor vehicle without a current license and not housed in a storage or other building;
6. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.
7. Debris from burned or damaged buildings, whether created by consensual burning or demolition or whether occurring due to fire or age.

### SECTION 3-403: WEEDS OR GRASSES; PUBLIC NUISANCE

It is hereby declared to be a public nuisance to permit grasses or weeds to grow in excess of 12 inches on any property within the corporate limits of the city.

**SECTION 3-404: LITTER; PUBLIC NUISANCE; EXCEPTIONS**

A. It is hereby declared to be a public nuisance to permit the accumulation of litter on any property within the corporate limits, except as provided in subsections (B) and (C) herein.

B. It shall be unlawful for any person to keep on, in or about any place within the City any dismantled or wrecked vehicles as such terms are defined in this Article unless such vehicle and all parts thereof are kept in a completely enclosed building or are screened from public view by natural or other means, provided that such screened-off area does not otherwise violate any provision of the municipal code. It is further provided that the prohibition against vehicle storage herein set forth shall not apply on any premises within the city properly zoned for such use. (Ord. No. 569, 5/8/97)

C. No person in charge or control of any property within the city, other than city property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on such property longer than 30 days. No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time; provided, this section shall not apply to a vehicle in an enclosed building or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city. Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of a misdemeanor. (Ord. No. 570, 5/8/97)

**SECTION 3-405: WEEDS, GRASSES AND LITTER; NOTICE OF NONCOMPLIANCE**

A. Whenever the City Council determines that any grasses or weeds in excess of 12 inches are growing on property within the city or litter is found on any property, notice to abate and remove such nuisance shall be given by the city clerk as follows: (1) to each owner or owner's duly authorized agent by certified mail, which shall be conspicuously marked as to its importance; and (2) to the occupant, if any, by personal service by a city police officer or county sheriff or deputy. Unsafe buildings as defined in Section 3-408 are excepted from the provisions of this section; abatement of unsafe buildings is provided in Sections 3-409 through 3-416.

B. Within five days after 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 city clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the mayor as hearing officer, who 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 such work done unless such decision is appealed to the District Court. The hearing shall be conducted according to the provisions set forth in Section 3-413(B)

hereafter except the hearing shall be conducted by the mayor instead of the City Council.

C. Within five days after receipt of such notice, 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, the city may have such work done. 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 city may either (1) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed 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.

(Neb. Rev. Stat. §17-563) (Ord. No. 569, 5/8/97)

**SECTION 3-406: WEEDS, GRASSES AND LITTER; FAILURE TO CORRECT;  
FINE**

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice to correct, he or she shall be guilty of a misdemeanor and fined in a sum of not more than \$500.00. Each day's violation after the expiration of the five business days' notice shall be a separate offense.

**SECTION 3-407: WEEDS, GRASSES AND LITTER; COST ASSESSED TO  
PROPERTY**

In addition to filing a complaint for violation of this article, the city may cause the work to be done to abate the nuisance and assess the cost of the same against the property. In this event, however, the city shall comply with the notice and hearing requirements set forth in Sections 3-412, 3-413 and 3-414 set forth hereafter.

**SECTION 3-408: DANGEROUS BUILDINGS; DEFINITIONS**

Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:

A. Those having walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;

B. Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;

C. Those with improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

D. Those damaged by fire, wind, or other causes so as to have become dan-

gerous to life, safety or the general health and welfare of the occupants of the people of the city;

E. Those which have become dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein;

F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein;

G. Those having inadequate facilities for egress in the case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of communication;

H. Those having parts thereof which are so attached that they may fall and injure persons or property;

I. Those that are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of the city because of their condition;

J. Those having been inspected by a specially appointed building inspector or a professional engineer appointed by the city which are, after inspection, deemed to be structurally unsafe or unsound as found by the inspection of such building inspector or professional engineer;

K. Those existing in violation of any provision of this article, any provision of the Fire Prevention Code, any provision of the county health rules and regulations or other applicable provisions of the ordinances of the city.

**SECTION 3-409: DANGEROUS BUILDINGS; STANDARDS**

The following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated, or demolished:

A. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired.

B. If the unsafe or dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

C. In any case where an unsafe or dangerous building or structure cannot be repaired so that it will no longer exist in violation of the terms or provisions of this arti-

cle, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of an ordinance of this city , or statute of the state, it shall be demolished.

### **SECTION 3-410: DANGEROUS BUILDINGS; PUBLIC NUISANCE**

All unsafe or dangerous buildings or structures within the terms of this article are hereby declared to be nuisances and shall be repaired, vacated, or demolished as provided above.

### **SECTION 3-411: DANGEROUS BUILDINGS; BUILDING INSPECTOR**

The City Council may appoint a special building inspector or professional engineer who shall, at the direction of the council:

A. Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in a dangerous or unsafe manner;

B. Inspect any building or structure within the jurisdictional area of the city for the purpose of determining whether any conditions exist which render such place a dangerous or unsafe building or structure within the terms of this article;

C. Report to the City Council the results of the inspection;

D. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.

### **SECTION 3-412: DANGEROUS BUILDINGS; NUISANCE; PROCEDURE**

If the special building inspector or professional engineer designated by the City Council finds that a building or structure is unsafe or dangerous and a nuisance, the council shall:

A. Notify the owner, occupant, lessee, mortgagee, agent or other persons having an interest in the building or structure that it has been found to be an unsafe or dangerous building. The notice will indicate whether the owner must vacate, repair or demolish the building or structure and shall be delivered to the persons as heretofore described by personal service or 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 lot or ground upon which the nuisance is to be abated or removed. In any case, notice shall be posted upon such premises as a procedural step herein, as described in subsection (C) below.

B. Set forth in the notice a description of the building or structure deemed unsafe or dangerous, accompanied by a statement of the particulars which make the building or structure unsafe or dangerous and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable;

C. Direct the special building inspector to place a sign on the building or structure found to be unsafe or dangerous on its exterior near the main entrance which shall set forth that the building or structure is unsafe or dangerous for occupancy and use.

### **SECTION 3-413: DANGEROUS BUILDINGS; DISPUTES**

A. In the event that the owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure determined dangerous, disagrees with or disputes the information contained in the notice, such person shall notify the city clerk with a written statement that sets forth the reasons for the disagreement or dispute and the relief requested. This written request shall be made within 14 days of mailing of the notice. If written notice is received by the city clerk within 14 days, a hearing shall be held before the City Council at its next regularly scheduled monthly meeting. The clerk shall notify the person requesting the hearing, in writing, of the time, place, and date of the regular monthly meeting and shall place the name of the person on the agenda of such meeting.

B. The hearing before the City Council shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and its decision shall be based on the evidence presented at the hearing. The person requesting the hearing may be represented by legal counsel or other representative, may present witnesses and offer evidence, and may examine and copy, at his or her own expense, and not less than three business days before the hearing, the records of the city regarding the inspection and notice. The City Council need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the council shall be final unless appealed. Failure of the person to attend the hearing shall relieve the council of any further procedures before action is taken as set forth in a notice.

### **SECTION 3-414: DANGEROUS BUILDINGS; APPEAL**

Any person aggrieved by the decision of the City Council may appeal the decision to the District Court. This appeal shall and must be taken within 30 days of the pronouncement of the council's decision.

### **SECTION 3-415: DANGEROUS BUILDINGS; FAILURE TO COMPLY**

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure shall fail, neglect, or refuse to comply with the no-

tice by or on behalf of the city to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, or shall fail to comply with the notice to abate grasses, weeds or litter, the city may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the City Council, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. In addition the city may bring a civil action against the offending party to recover the cost of the work.

### **SECTION 3-416: DANGEROUS BUILDINGS; IMMEDIATE HAZARD**

In the event the building constitutes an immediate hazard to the life or safety of any persons and must be demolished to protect their health or safety, a specially appointed building inspector or a professional engineer designated by the City Council shall report such facts to the council, which shall follow the procedures set forth in state statutes. The city, by and through the City Council, may immediately contract for the immediate demolition of the unsafe or dangerous building without requiring bids. The cost of such emergency vacation and demolition of unsafe or dangerous buildings or structures shall be levied, equalized, and assessed, as are other special assessments.

### **SECTION 3-417: JURISDICTION**

The mayor and city police are directed to enforce this city code against all nuisances. The jurisdiction of the mayor, city police, and court shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the city within one mile thereof and all territory within the corporate limits. (Neb. Rev. Stat. §18-1720)

### **SECTION 3-418: PROCEDURES IN CASE OF EMERGENCY**

When the conditions which constitute the nuisance pose an immediate threat to the public peace, health, or safety, the mayor or the city police may order the nuisance abated immediately.

### **SECTION 3-419: 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. (Neb. Rev. Stat. §19-710)

