

CHAPTER 95: NUISANCES

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Cross-reference:

Health and Sanitation, see Ch. 94

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Statutory reference:

Abandoned motor vehicles, see Neb. RS 60-1901 et seq.

GENERAL PROVISIONS**§ 95.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LITTER. Includes the following:

- (1) Trash, rubbish, refuse, garbage, paper, rags and ashes;
- (2) Wood, plaster, cement brick or stone building rubble;
- (3) Grass, leaves and worthless vegetation;
- (4) Offal and dead animals; and

(5) Any machine or 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, or are inoperative or unable to perform their intended functions or are cast-off, discarded or thrown away or left as waste, wreckage or junk.

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:

- (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 city;
- (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.

(2002 Code, § 34-31) (Ord. 2000-26, passed 12-12-2000)

§ 95.02 SPECIFIC ENUMERATION.

The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things are 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. This shall include yard waste, unless such items are contained in a managed compost pile;

(B) Privies, vaults, cesspools, dumps, pits, cisterns or like places which are not securely protected from flies or rats, or which are foul, malodorous or dangerous;

(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 contained in this division (E) shall prevent the temporary retention of waste in receptacles in a manner provided by the Health Officer of the city, nor the dumping of non-putrefying 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 they are 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, sticks and branches, excluding neatly stacked firewood, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, building materials, such as lumber, shingles, siding, drywall or insulation that are not in use in an on-going construction project, unless storage of those items is a permitted use in the zoning district, old automobiles or parts, tires or any other waste materials when any of such 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;

(H) 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 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;

(I) All places used or maintained as junkyards, 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 their parts, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which 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;

(J) Any furniture or appliances designed and intended for interior use only. Such items may include, but are not limited to, stoves, refrigerators, microwaves, televisions, electronic equipment, computer equipment, sofas, recliners and upholstered chairs;

(K) Stockyards, granaries, mills, pigpens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowl 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 such places in which such animals are confined or such premises on which such vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate from the premises, 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; and/or

(L) All other things specifically designated as nuisances elsewhere in this chapter.
(2002 Code, § 34-32) (Ord. 2013-15, passed 3-5-2013)

§ 95.03 JURISDICTION.

The Mayor and Chief of Police of the city are directed to enforce this 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 city within two miles and all territory within the corporate limits.

(2002 Code, § 34-33)

Statutory reference:

Related provisions, see Neb. RS 18-1720

§ 95.04 AIR POLLUTION PROHIBITED.

It is unlawful for any business or person operating a free standing smoker or cooker for commercial use more than 12 times per year to release smoke at an elevation less than 15 feet above the ground surface or to release smoke through a chimney that extends less than two feet higher than any portion of a building within ten feet of the smoker or cooker. All commercial smokers or cookers operated within a building shall release smoke through a chimney that extends at least three feet above the point where the chimney passes through the roof. It shall also be unlawful for any person to permit or cause the escape of such nuisances, and the escape of dust, fumes, gases, mists, odors and smoke is 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 city.

(2002 Code, § 34-34) Penalty, see § 95.99

§ 95.05 NOXIOUS USE OF BUILDING OR PREMISES.

It shall be unlawful for any person to use a building or premises in any part of the city for any trade, industry or other purpose that is detrimental to the public health, safety and welfare. Such a noxious or offensive use is declared to constitute a public nuisance.

(2002 Code, § 34-35) Penalty, see § 95.99

§ 95.06 WATER POLLUTION PROHIBITED.

It shall be unlawful for any person 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 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 city shall constitute a nuisance and shall be summarily abated upon written notice to the violator by the Board of Health. The abatement may be in addition to the penalty for water pollution.

(2002 Code, § 34-36) Penalty, see § 95.99

§ 95.07 NOXIOUS SUBSTANCES PROHIBITED.

(A) (1) It shall be unlawful for any person to deposit or permit the accumulation of any foul, decaying or rotting substance, including stagnant water, in or upon any lot, street, public way or private property in the city.

(2) It shall be also unlawful to permit the overflow of any foul liquids to the extent that they may be hazardous to the public health or a source of discomfort to persons living or passing in the vicinity.

(B) Such noxious substances constitute a nuisance and shall be removed or otherwise made safe and inoffensive for the residents of the city upon the written notice of the Board of Health. The notice shall allow five days to remove the nuisance.

(C) At the expiration of that date, the property owner shall be deemed to be guilty of a misdemeanor if he or she has failed, neglected or refused to remove the nuisance.

(2002 Code, § 34-37) Penalty, see § 95.99

§ 95.08 NUISANCES; ADJOINING LANDOWNERS; INTERVENTION BEFORE TRIAL.

In cases of appeal from an action of the 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 that.

(2002 Code, § 34-38)

Statutory reference:

Related provisions, see Neb. RS 19-710

§ 95.09 NUISANCE; DUTY OF OWNER OR OCCUPANT.

The owner or occupant of any lot or piece of ground within the municipality shall:

(A) Keep the lot or piece of ground and the adjoining streets and alleys to the center thereof free of any growth of 12 inches or more in height of weeds, grasses or worthless vegetation, except for site designated by the city as habitat areas or storm water management areas;

(B) Prevent the throwing, depositing or accumulation of litter on any lot or piece of ground within the municipality; and

(C) Refrain from maintaining a disorderly house, as defined by this code.

(2002 Code, § 34-39) (Ord. 2000-26, passed 12-12-2000; Ord. 2013-16, passed 3-19-2013)

§ 95.10 ABATEMENT OF NUISANCE.

(A) Before the municipality may act to abate and remove such nuisance, notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail.

(B) If notice by personal service or certified mail is unsuccessful, notice shall be given by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed.

(C) Within five days of receipt of such notice, if the owner or occupant of the property 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 and may levy and assess the costs and expenses of the work upon the property so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(2002 Code, § 34-40) (Ord. 2000-25, passed 12-12-2000; Ord. 2013-17, passed 3-19-2013)

Statutory reference:

Related provisions, see Neb. RS 16-230

TOBACCO**§ 95.25 USE OF TOBACCO PRODUCTS ON CITY PROPERTY.**

No person shall use any tobacco products in any city-owned, -leased or -rented building or vehicle. (2002 Code, § 34-1) Penalty, see § 95.99

NOXIOUS WEEDS**§ 95.40 GROWTH PERMITTED; CONTROL AND MAINTENANCE.**

(A) It shall be the duty of each owner, owner's agent, and occupant of any lot, tract or parcel of land in the city to cut and remove from such lot, tract, or parcel of land, together with half of the abutting streets or alleys, excessive growth of weeds, grasses or worthless vegetation. Such growth shall be cut as close to the ground level as possible and shall be maintained as close to the ground level as possible throughout the period of May 1 to October 15 of each year. Growing or permitting the growing of weeds, grasses, or vegetation in violation of this division is a nuisance and is prohibited.

(B) It shall be unlawful for any owner, owner's agent or occupant of any premises described in division (A) of this section to allow to grow or to maintain any weeds, grasses, or worthless vegetation 12 inches in height or greater.

(C) The City Administrator or his or her designee shall cause to be published in a legal newspaper of general circulation throughout the city for one time at least ten days before May 1, and on any other date designated by resolution of the Council, a general notice to owners, owner's agents, or occupants of real estate within the city to cut and remove excessive weeds, grasses and worthless vegetation 12 inches in height or greater from such premises. The notice shall specify that the weeds and other rank growth of vegetation shall be cut as close to the ground level as possible throughout the period of May 1 to October 15.

(D) The City Administrator or his or her designee is authorized and empowered to notify, in writing, the owner, or owner's agent, and occupant of any such lot, place or area within the city to cut, destroy and remove any such weeds, grasses or worthless vegetation 12 inches in height or greater located on such property.

(E) 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 a 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 the City Administrator. The City Administrator 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.

(F) If the owner or occupant of the lot or piece of ground does not request a hearing with the city, or upon the failure of any such owner, owner's agent, or occupant so notified to cut, destroy and remove such weeds, grasses or worthless vegetation 12 inches in height or greater within five days after receipt of notice provided for in division (D) of this section, the city may have such work done. The costs and expenses of any such work shall be paid by the owner.

(G) If the costs and expenses mentioned in division (F) of this section are unpaid for two months after such work is done, the city may either 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 recover in a civil action the costs and expenses of the work upon the lot or piece of ground.

(2002 Code, § 34-61) (Ord. 2013-34, passed 9-6-2013) Penalty, see § 95.99

§ 95.41 NOTICE.

For any notice provided for in § 96.40, notice shall be given by either certified mail, first-class mail or by posting on the property. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. If notice is given by posting, the notice shall be posted in a conspicuous place on the property.

(Ord. 2013-45, passed 9-17-2013)

ABANDONED, UNLICENSED OR INOPERABLE MOTOR VEHICLES

§ 95.55 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. Any motor vehicle left unattended:

(1) With no number plates affixed thereto, if so required by law, for more than eight hours on any public property;

(2) For more than 72 hours, after the parking of such vehicle shall become illegal, if left on a portion of a public property on which parking is legally permitted; and

(3) For more than seven days on private property if left initially without permission of the owner, or after the permission of the owner has been terminated.

INOPERABLE MOTOR VEHICLE. Any motor vehicle on which the engine, wheels or tires or other parts have been removed, altered damaged or otherwise so treated or allowed to deteriorate that

the motor vehicle is incapable of being driven under its own motor power. Such presumption may be rebutted only by showing that the motor vehicle is capable of being driven under its own power.

PRIVATE PROPERTY. Any which is not included in public property as defined in this section.

PUBLIC PROPERTY. Any public right-of-way, street or highway, alley, park or other state, county or municipally owned property.

UNLICENSED MOTOR VEHICLE. Any motor vehicle required to be licensed that does not have lawfully affixed thereto an unexpired license plate.

(2002 Code, § 34-81) (Ord. 2000-24, passed 12-12-2000)

§ 95.56 ABANDONED, UNLICENSED OR INOPERABLE MOTOR VEHICLES PROHIBITED.

(A) No person shall park, store, leave or permit the parking, storing or leaving of any abandoned, unlicensed or inoperable motor vehicle upon any private property within the city for a period of time in excess of 20 days or on public property for longer than 72 hours. This section shall not apply to any motor vehicle upon private property which is enclosed within a building. This section shall not apply to any motor vehicle held in connection with a business enterprise lawfully licensed by the city and property operated in the appropriate business zone pursuant to law.

(B) No person shall leave any abandoned vehicle on any street or highway within the city or on public property within the corporate limits; provided, abandoned, unlicensed or inoperable motor vehicles may be left at a place operated by the city for impounded vehicles in accordance with the rules and regulations governing such properties.

(2002 Code, § 34-82) (Ord. 2000-24, passed 12-12-2000) Penalty, see § 95.99

§ 95.57 IMPOUNDING ABANDONED, UNLICENSED OR INOPERABLE MOTOR VEHICLES.

(A) The city, by its agents, is hereby authorized to remove or have removed any vehicle left within the city corporate limits which reasonably appears to be in violation of this division (A) or is lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with the laws of the state; provided, however, that, any vehicle left at any place other than on public property shall not be removed and impounded as provided for in this section until notice shall have been given that the city shall remove the vehicles from the property after five days from the date of notice.

(B) Such notice shall be given by any of the following methods:

(1) Affixing written notice on such vehicles;

(2) Sending notice by mail to the owner of such vehicle at his or her last known address if the owner is reasonably ascertainable;

(3) By sending notice by mail to the person owning or occupying the property on which such vehicle is located; or

(4) By notifying the owner of the vehicle or owner or occupant of the property in person.

(C) Any city police officer or city public safety employee may enter upon private property at all reasonable hours for the purpose of inspecting such vehicle, posting notice thereon and removing and impounding such vehicles.

(2002 Code, § 34-83) (Ord. 2000-24, passed 12-12-2000)

§ 95.58 ENFORCEMENT.

It shall be unlawful for any person to prevent any police officer or public safety employee from entering upon private property for purposes of carrying out their duties hereunder or to interfere with them in the lawful performance of their duties under the provisions of this section.

(2002 Code, § 34-84) (Ord. 2000-24, passed 12-12-2000) Penalty, see § 95.99

§ 95.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code.

(B) Any owner or occupant who fails to abate a nuisance or request a hearing with the City Problem Resolution Team within five days of notice per § 95.09 of this chapter shall, upon conviction, be guilty of a misdemeanor and be fined no less than \$100. Each day a violation continues shall constitute a separate offense.

(2002 Code, § 34-39)

(C) It shall be unlawful to violate § 95.25 of this chapter. Violation of § 95.25 of this chapter shall constitute an offense and, upon conviction, such person shall be subject to § 10.99 of this code.

(2002 Code, § 34-1)

(D) Any person violating the provisions of §§ 95.55 through 95.58 of this chapter shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined in a sum of not less than \$25 and not to exceed \$100.

(2002 Code, § 34-85)

(Ord. 98-12, passed 5-26-1998; Ord. 2000-24, passed 12-12-2000; Ord. 2000-26, passed 12-12-2000; Ord. 2013-16, passed 3-19-2013)