

## CHAPTER 94: HEALTH AND SANITATION

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#### ***Cross-reference:***

- Business Regulations, see Title XI*
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### **GENERAL PROVISIONS**

#### **§ 94.01 HEALTH REGULATIONS.**

For the purpose of promoting the health and safety of the residents of the city, the Board of Health shall adopt such rules and regulations relative to health and safety and shall make such inspections, prescribe such penalties and make such reports as may be necessary toward that purpose.  
(2002 Code, § 42-1)

#### ***Statutory reference:***

- Related provisions, see Neb. RS 16-238*

**§ 94.02 ENFORCEMENT OFFICIAL.**

The City Police Chief shall be the Health Officer of the city. It shall be his or her duty to notify the Council of health nuisances and of every case of contagious, infectious or malignant disease.  
(2002 Code, § 42-2)

**§ 94.03 HEALTH; STATE RULES.**

The “Rules and Regulations Relating to Public Health”, State Department of Health and Human Services, are incorporated by reference when they are applicable to the city, in their present form and as they may be amended. One copy of each of the pamphlets is filed at the office of the City Clerk and shall be available for public inspection at any reasonable time.

(2002 Code, § 42-3)

***Statutory reference:***

*Authority to adopt codes by reference, see Neb. RS 18-132*

**§ 94.04 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 city.

(2002 Code, § 42-4)

***BUSINESS SANITATION*****§ 94.15 POULTRY AND EGG LAYING.**

(A) The City Administrator shall make and publish regulations for the operation of poultry and egg laying businesses within the zoning jurisdiction of the city. Such regulations shall be made so as to:

- (1) Eliminate offensive odors from the operation of such business;
- (2) Provide for the orderly disposal of waste material from such businesses;
- (3) Provide for the sanitary operation of such businesses; and

(4) Provide for orderly inspection to assure that compliance with such regulations is being enforced.

(B) Such regulations shall be subject to the approval of the Council, and a copy of such regulations or amendments shall be posted in a prominent place in each poultry and egg laying business within the zoning jurisdiction of the city.

(C) The operation of any poultry or egg laying business in violation of such regulations shall be declared a nuisance and may be enjoined from continued operation of such business.  
(2002 Code, § 42-41) Penalty, see § 10.99

***RODENTS AND INSECTS***

**§ 94.30 EXTERMINATION.**

It shall be the duty of the owner, lessee or occupant of any dwelling or building to be responsible for the active and continued extermination of any insects, rodents or other pests in or on the premises. If the owner, lessee or occupant of any dwelling or building neglects, fails or otherwise refuses to control and actively exterminate the insects, rodents and other pests in and about his or her premises, the Board of Health shall issue notice via first class mail for him or her to do so. If the owner, lessee or occupant has not made a good-faith effort to exterminate the pests within seven days, the premises shall be deemed to be a nuisance and a health hazard.

(2002 Code, § 42-71) Penalty, see § 10.99

***Statutory reference:***

*Authority to define and abate nuisances, see Neb. RS 18-1720*

**§ 94.31 OCCUPANT.**

It shall be the responsibility of the occupant in a single-dwelling unit, whether or not the dwelling unit is located in a multiple-unit structure, to exterminate the rodents and insects infesting the premises when it is found by the Board of Health that only the occupant's dwelling is so infested.

(2002 Code, § 42-72) Penalty, see § 10.99

**§ 94.32 OWNER.**

The owner of a multiple-dwelling unit shall have the duty to exterminate rodents and insects when infestation exists in two or more units, when infestation exists in shared or public areas of a multiple-unit structure when the infestation is due to failure by the owner to maintain the dwelling in an insect-proof and rodent-proof condition. The owner of a single-dwelling unit shall have the duty to exterminate notwithstanding the occupancy of a renter or lessee when the infestation of insects or rodents is due to the owner's failure to construct or maintain the premises in such a manner as to make it reasonably resistant to the entrance and habitability of such pests.

(2002 Code, § 42-73) Penalty, see § 10.99

*PREVENTION OF COVID-19***§ 94.40 LEGISLATIVE FINDINGS AND INTENT.**

The council hereby finds and declares, based upon the scientific and medical evidence before it, that:

(1) The Novel Coronavirus (COVID-19) has impacted and continues to dramatically impact the citizens of the city; and

(2) An exposure to COVID-19 presents a risk of death or serious long-term disability; the exposure is widespread and poses significant risk of harm, including death, to people in the general population of the city; there is a particular subset of the population that is more vulnerable to the threat and thus at an increased risk; and the threat is from a novel infectious disease; and

(3) Information from the World Health Organization, the Centers for Disease Control and Prevention, Nebraska Department of Health and Human Services, the Northeast Nebraska Public Health Department, local public health departments throughout Nebraska, and members of the City of Wayne and Wayne County medical community indicate that citizens of the city have been and will continue to be exposed due to community transmissions of COVID-19; and

(4) The manner in which the spread of COVID-19 cases in the city has occurred creates an unacceptable risk to the health, safety, and welfare of the citizens of the city; and

(5) The number of COVID-19 infections within the city continues to increase; and

(6) COVID-19 constitutes a public nuisance and a threat to the health, safety, and welfare of the city; and

(7) The Director of the United States Centers for Disease Control and Prevention (CDC), the medical advisor for the city, doctors and infectious disease experts from the University of Nebraska Medical Center and Nebraska Medicine, have concluded that the wearing of face coverings by every individual while in public is one of the best methods to slow and stop the spread of COVID-19; and

(8) The wearing of face coverings by every individual while indoors in public places in the city will reduce community transmissions of COVID-19, resulting in fewer deaths, serious health complications, and will ease the strain on hospitals and other medical offices and facilities; and

(9) The wearing of face coverings by every individual while indoors in public places in the city will help keep businesses open and operating, encouraging economic growth, and preventing prolonged economic harm; and

(10) It is just and proper for the council to exercise the authority granted to it by Nebraska statutes in furtherance of protecting the public health, safety and welfare.

(Ord. 2020-22, passed 12-01-2020)

**§ 94.41 DEFINITIONS.**

For purposes of this Article, the following terms are defined as follows:

**Face covering:** A face covering is defined as a covering which, when worn properly, must cover the nose and mouth completely and can include a paper or disposable face mask, a cloth face mask, a scarf, a bandanna, a neck gaiter, or a religious face covering. Medical-grade masks and respirators are sufficient face coverings, but to preserve adequate supplies, their purchase and use is discouraged for those who do not work in a health care setting or in other occupations that require medical-grade personal protective equipment. Masks that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are not sufficient face coverings because they allow exhaled droplets to be released into the air.

**Premises that are open to the general public:** Premises that are open to the general public are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, nonprofit entities, regular commercial or business establishments, private clubs, religious centers or buildings, public transportation (including buses, taxis, ride-sharing vehicles, or vehicles used for business purposes), and any place which is generally open to the public, including educational institutions.

(Ord. 2020-22, passed 12-01-2020)

**§ 94.42 INDIVIDUAL FACE COVERINGS REQUIRED.**

All individuals age five and older shall wear a face covering over their mouth and nose while indoors in a premises that is open to the general public including, but not limited to, educational institutions, unless the individual maintains a minimum of six feet of separation or social distance at all times from anyone who is not a member of the individual's household, except face coverings will not be required if the individual:

- (1) Is seeking federal, state, or county services; or
- (2) Is seated at a bar, restaurant, or their seat at an arena to eat or drink, or while immediately consuming food or beverages; or
- (3) Is engaged in an occupation preventing the wearing of a face covering; or
- (4) Is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering; or
- (5) Is asked to remove a face covering to verify an identity for lawful purposes; or
- (6) Is providing a speech, lecture, or broadcast to an audience so long as six feet of distancing from other individuals is maintained; or

(7) Cannot otherwise wear a face covering because of a medical condition, a mental health condition, or a disability that makes it unreasonable for the individual to wear a face covering.

Nothing in this section shall prohibit the owner or person in charge of a premises that is open to the general public from requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

(Ord. 2020-22, passed 12-01-2020)

**§ 94.43 PREMISES THAT ARE OPEN TO THE PUBLIC - DUTY TO REQUIRE FACIAL COVERINGS.**

Any individual or entity which maintains premises that are open to the general public including, but not limited to, educational institutions, shall require all individuals age five and older to wear a face covering over their mouth and nose while indoors in said premises, unless the individual maintains a minimum of six feet of separation or social distance at all times from anyone who is not a member of the individual's household, except face coverings will not be required if the individual:

- (1) Is seeking federal, state, or county services; or
- (2) Is seated at a bar, restaurant, or their seat at an arena to eat or drink, or while immediately consuming food or beverages; or
- (3) Is engaged in an occupation preventing the wearing of a face covering; or
- (4) Is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering; or
- (5) Is asked to remove a face covering to verify an identity for lawful purposes; or
- (6) Is providing a speech, lecture, or broadcast to an audience so long as six feet of distancing from other individuals is maintained; or
- (7) Cannot otherwise wear a face covering because of a medical condition, a mental health condition, or a disability that makes it unreasonable for the individual to wear a face covering.

Nothing in this section shall prohibit the owner or person in charge of a premises that is open to the general public from requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

(Ord. 2020-22, passed 12-01-2020)

**§ 94.44 NOTICE OF FACE COVERING REQUIREMENTS.**

Any individual or entity which maintains premises that are open to the general public, including but not limited to educational institutions, must post one or more signs that are visible to all persons -- including workers, customers, and visitors instructing them to wear face coverings as required by this Article.

(Ord. 2020-22, passed 12-01-2020)

**§ 94.45 EXCEPTIONS.**

The provisions of this Article shall not apply to:

(1) Courts of law; public utilities or federal, state, county or city operations; medical providers, facilities, or pharmacies; congregate living centers or facilities; group homes and residential drug and/or mental health treatment facilities; shelters; airport travel; election offices; polling places on an election day; or to residential dwelling units.

(2) Children under the age of five. While children ages three and four may wear a face covering if that child can remove the face covering without assistance, guidance from the CDC states that children two years old and under should never wear a face covering due to the risk of suffocation.

(3) Federal and state activities. Nothing in this Article shall be construed to limit, prohibit, or restrict in any way the operations of the federal or state government or the movement of federal or state officials in the city while acting in their official capacity, including federal and state judicial, legislative, and executive staff and personnel.

(4) Individuals at their workplace when wearing a face covering would create a job hazard for the individual or others as determined by federal, state, or local regulators or workplace safety and health standards and guidelines.

(5) Individuals who are alone in an office, room, a vehicle, the cab of heavy equipment or machinery, or an enclosed work area. In such situations, the individual should still carry a face covering to be prepared for person-to-person interactions and to be used when the individual is no longer alone.

(6) Individuals who are seated at a desk or standing at a stationary workstation, provided that the desk or workstation has a solid Plexiglas or plastic barrier installed upon it which cannot be moved.

(7) Individuals who are officiating at a religious service.

(8) Individuals communicating with other individuals who are deaf or hard of hearing or who have a disability, medical condition, or mental health condition that makes communication with that individual while wearing a face covering difficult, provided that minimum social distancing of six feet or more is maintained to the extent possible between persons who are not members of the same household.

(9) Individuals who are engaged in activities, such as swimming or showering, where the face covering will get wet.

(10) Individuals who are exercising in an indoor business or indoor space such as a gym or fitness center, while the level of exertion makes it difficult to wear a face covering, provided that minimum social distancing of six feet or more is maintained at all times.

(11) Individuals in an indoor premises that is generally open to the public while playing a musical instrument that cannot be played when a face covering is worn, provided that a minimum social distancing of six feet or more is maintained at all times.

(12) Public safety workers actively engaged in a public safety role, including but not limited to law enforcement personnel, fire fighters, or emergency medical personnel, in situations where wearing a face covering would seriously interfere in the performance of the individual's public safety responsibilities.

(13) Participants in a sporting event or a live theatrical performance, but only while they are playing the game or performing, if the school or sponsoring organization does not require facial coverings, however, spectators, coaches, and non-participants would be required to wear facial coverings.

(Ord. 2020-22, passed 12-01-2020)

#### **§ 94.46 PUBLIC NUISANCE DECLARED.**

Any individual or entity which maintains premises that are open to the general public who fails to comply with the requirements of Sec. 94.43 is hereby declared to be a nuisance and a danger to the public health, safety, and welfare.

(Ord. 2020-22, passed 12-01-2020)

#### **§ 94.47 APPLICATION.**

The provisions of this Article shall only apply to all persons and property within the corporate limits of the city and shall not extend into the two-mile extraterritorial jurisdiction of the city.

(Ord. 2020-22, passed 12-01-2020)

#### **§ 94.48 PENALTY.**

Any individual or person who is found to have violated any of the provisions of this Article shall be guilty of an infraction for each offense and shall be subjected to a fine of \$25 for the initial offense. Each instance of violation of this Article may be considered to be a separate offense.

(Ord. 2020-22, passed 12-01-2020)

**§ 94.49 CIVIL ABATEMENT.**

In addition to any other penalty sought or obtained under this Article or other applicable law, the city attorney may institute injunctive or other appropriate civil proceedings necessary to obtain compliance with this Article or to abate any nuisance resulting from violations of this Article.

(Ord. 2020-22, passed 12-01-2020)

**§ 94.50 SUNSET PROVISION.**

The requirements imposed by this Article shall expire and terminate at 11:59 p.m. on April 6, 2021, or earlier as decided by the council in consultation and coordination with the medical community, or may otherwise be extended by ordinance of the council.

(Ord. 2020-22, passed 12-01-2020, amended 2-2-2021)