

## **CHAPTER 4: HEALTH AND SANITATION**

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## **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 Municipal Police Chief shall be the health officer of the Municipality. It shall be his duty to notify the Governing Body of health nuisances and of every case of contagious, infectious, or malignant disease. *(Ref. 17-121 RS Neb.)*

### **§ 4-103 HEALTH; STATE RULES.**

*(Repealed by Ord. No. 826, 4/24/01)*

### **§ 4-104 HEALTH; 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 Municipality.



## **ARTICLE 2: DISEASE**

### **§ 4-201 DISEASE; CONTAGIOUS.**

It shall be the duty of every physician called in to care for or treat a person afflicted with any contagious disease or any epidemic disease to make a report of the same within twenty-four (24) hours after being called in for such care, to the Municipal Police Chief. In the event that no physician is in attendance, it shall be the duty of the person in charge of the care of such ill patient to make a report within twenty-four (24) hours from the time the disease is recognized. (*Ref. 71-503 RS Neb.*)

### **§ 4-202 DISEASE; SPREADING CONTAGION.**

It shall be unlawful for any person to spread disease willfully or negligently, or to cause the spread of the same. (*Ref. 17-114, 17-123 RS Neb.*)

### **§ 4-203 DISEASE; MEDICAL ATTENTION REQUIRED.**

It shall be unlawful for the parent, guardian, or other person responsible for any child to fail or neglect to secure proper medical treatment for the said child when he is afflicted with a contagious or infectious disease. (*Ref. 17-114, 17-123 RS Neb.*)



**ARTICLE 3: RESERVED**





## **ARTICLE 4: GARBAGE DISPOSAL**

### **§ 4-401 GARBAGE; DEFINED.**

The term “garbage” as used herein shall be defined to mean kitchen refuse, decayed waste, dead animals, or anything that may decompose and become offensive to the public health.

### **§ 4-402 RUBBISH; DEFINED.**

The terms “rubbish” or “trash” as used herein shall be defined as discarded machinery, chips, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags, or any other litter or debris that is not an immediate hazard to the health of the residents of the Municipality.

### **§ 4-403 WASTE; DEFINED.**

The term "waste" as herein defined shall mean cinders, ashes, plaster, brick, stone, sawdust, or sand.

### **§ 4-403.01 SOLID WASTE DISPOSAL; YARD WASTE; DEFINED.**

The term "yard waste" shall mean grass and leaves. (*Ref.13-2016.01 RS Neb.*) (*Ord. No. 668, 3/14/95*)

### **§ 4-404 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 receptacles not exceeding a thirty (30) gallon capacity and as nearly airtight 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. All persons shall have the contents of their garbage cans removed at least once a week. (*Ref. 19-2106 RS Neb.*)

**§ 4-404.01 SOLID WASTE; HAZARDOUS ITEMS AND ITEMS REQUIRING SPECIAL HANDLING OR DISPOSAL.**

(A) No person shall put out any of the items specified below to be collected by the municipal solid waste collector for land disposal.

(1) Yard waste from April 1 through November 30 of each year unless such yard waste has been separated from its source and is put out for separate collection and delivery to the landfill for the purpose of soil conditioning or composting under the conditions otherwise specified.

(2) Lead-acid batteries.

(3) Waste oil.

(4) Waste tires in any form except tires that are nonrecyclable. Tires are not considered disposed if they meet the requirements of section 13-2039 RS Neb.

(5) Discarded household appliances.

(6) Unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act.

(B) Any such items shall be disposed of only as permitted under the Nebraska Integrated Solid Waste Management Act or any amendments thereof. (*Ref. 13-2039 RS Neb.*)

(C) For purposes of this section:

(1) Land disposal includes, but is not limited to, incineration at a landfill.

(2) Nonrecyclable tire means a press-on solid tire, a solid pneumatic shaped tire, or a foam pneumatic tire. (*Ref. 13-2039 RS Neb.*)

(3) Waste tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect. (*Ref. 13-2013.02 RS Neb.*)

(4) Yard waste means grass and leaves. (*Ref. 13-2016.01 RS Neb.*)  
(*Ord. No. 907, 1/27/04*)

**§ 4-405 DUMP COMMISSIONER.**

The Municipal Dump Commissioner shall have the duty of enforcing the rules and regulations concerning garbage, rubbish, waste, and refuse in conjunction with the Board of Health and the Municipal Police Chief. He shall notify promptly any person who fails to comply fully with the provisions hereof and shall recommend to the Governing Body that a complaint be filed by the Municipal Attorney for each and every willful violation. He shall have the immediate control of the Municipal Dump and shall supervise the depositing of garbage, refuse, waste, and rubbish thereon.

**§ 4-406 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.)*

**§ 4-407 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.)*

**§ 4-408 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 4-407 if such garbage or refuse has not been removed. *(Ref. 18-1303 RS Neb.)*

**§ 4-409 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.)*



**ARTICLE 5: RESERVED**



## **ARTICLE 6: RODENTS AND INSECTS**

### **§ 4-601 RODENTS AND INSECTS; 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 therein, or on the premise. In the event that the owner, lessee, or occupant of any said dwelling or building neglects, fails, or otherwise refuses to control and actively exterminate the insects, rodents, and other pests in and about his premise, the Board of Health shall issue notice for him to do so. If the said owner, lessee, or occupant has not made a good faith effort to exterminate the said pests within five (5) days, the premise shall be deemed to be a nuisance and a health hazard. (*Ref. 18-1720, 28-1321 RS Neb.*)

### **§ 4-602 RODENTS AND INSECTS; 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 premise when it is found by the Police Chief or the Board of Health that only the occupant's dwelling is so infested. (*Ref. 18-1720, 28-1321 RS Neb.*)

### **§ 4-603 RODENTS AND INSECTS; OWNER.**

The owner of a multiple dwelling unit shall have the duty to exterminate therein for rodents and insects when infestation exists in two (2) 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 and rodent proof condition. The owner of a single dwelling unit shall have the duty to exterminate therein notwithstanding the occupancy of a renter or lessee when the infestation of insects or rodents is due to the said owner's failure to construct or maintain the premise in such a manner as to make it reasonably resistant to the entrance and habitability of such pests. (*Ref. 18-1720, 28-1321 RS Neb.*)





## **ARTICLE 7: RENTED DWELLINGS**

### **§ 4-701 ROOMING HOUSE; SANITARY MAINTENANCE.**

The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the maintenance of the sanitary condition in every other part of the rooming house, and if the operator is also the owner, he shall have the duty of maintaining the entire premise in the same and sanitary manner herein prescribed. *(Ref. 17-123 RS Neb.)*

### **§ 4-702 ROOMING HOUSE; BED LINEN AND TOWELS.**

The owner or operator of every rooming house shall change supplied bed linen and towels therein at least one (1) time each week and also prior to the letting of any room to a new occupant. The operator shall be responsible for the maintenance of all supplied bedding and towels and it shall be his duty to insure their sanitary condition. *(Ref. 17-123 RS Neb.)*



## **ARTICLE 8: RESIDENTIAL AREA**

### **§ 4-801 RESIDENTIAL AREA; UNSANITARY PREMISES.**

It shall be unlawful for the owner or occupant of any dwelling to utilize the premise of such dwelling for the storage of refrigerators, stoves, glass, building materials, rubbish, or motor vehicles that are in disrepair or abandoned. It shall be the duty of the said owner or occupant to keep the premises of such residential property in a safe and sanitary condition by removing from the premise all such items as herein described including, but not limited to, weeds, dead trees, limb, or other waste materials upon notice from the Board of Health through the Police Chief. (*Ref. 18-1720, 28-1321 RS Neb.*)



## ARTICLE 9: NUISANCES

### § 4-901 NUISANCES; GENERALLY DEFINED.

A 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 either:

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 Municipality.
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.

*(Ref. 18-1720 RS Neb.)*

### § 4-902 NUISANCES; SPECIFICALLY DEFINED.

For purposes of this Article the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) ***NUISANCE***. A 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 municipality;



- (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
- (7) Tends to depreciate the value of the property of others.

(B) *NUISANCE* includes, the maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things of:

(1) Any odorous, putrid, unsound, or unwholesome gram, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl;

(2) The emission of smoke, dust, fumes, gases, mists, odors, or polluted air from any source that is injurious or dangerous to human health and safety;

(3) Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats or other insects and rodents, or which are foul or malodorous;

(4) 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;

(5) Dead animals or dead animals buried within the corporate limits;

(6) 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;

(7) Hauling any garbage, waste, or refuse matter through the streets, alleys, and public ways except when the same is loaded and conveyed in such a way when none of the contents shall be spilled;

(8) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity. Nothing herein contained shall prevent the temporary retention of waste in receptacles nor the dumping of non-putrefying waste in a place and manner approved by the municipality;

(9) 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;

(10) 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

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any of the articles or materials create a condition in which flies or rats or other insects or rodents may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity;

(11) Any unsafe building, 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 a fire hazard, or a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity;

(12) 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 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;

(13) 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 the places in which the animals are confined, or the premises on which the 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;

(14) Dead or diseased trees within the right-of-way of streets within the corporate limits of the City, or on private property within the one mile zoning jurisdiction beyond the corporate limits (section 17-555 RS Neb.);

(15) Undrained lots which hold or may hold stagnant water or any other nuisance;

(16) Any condition which allows the perpetuating of insects and rodents;

(17) Storage, accumulation, keeping, placing, or allowing to remain trash, garbage, scrap and wrecked, worn-out, broken or inoperative, or partially destroyed or disassembled personal or real property of any kind, including any junk or abandoned motor vehicles, tractors, trailers, machinery, and equipment;

(18) Any vehicle which is not properly registered, or is inoperable, wrecked, junked, or partially dismantled and remaining longer than thirty (30) days on private property. This does not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a



lawful place and manner, when necessary to the lawful operation of such business enterprise (such as a licensed salvage dealer, motor vehicle dealer or farm implement dealer), or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, and so long as the premises which said vehicle is located is not a nuisance and is maintained in a healthful and safe condition;

(19) Lots, pieces of ground, and the adjoining streets and alleys with growth of weeds or noxious growth;

(20) All other things specifically designated as nuisances elsewhere in Stromsburg Municipal Code. (*Amended by Ord. Nos. 833, 11/27/01; 1034, 8/22/11*)

#### **§ 4-902.01 WEEDS; LITTER; STAGNANT WATER.**

(A) Lots or pieces of ground within the City or within its one (1)-mile zoning jurisdiction shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the City or within its one (1)-mile zoning jurisdiction shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of twelve (12) inches or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the City or within its one (1)-mile zoning jurisdiction is prohibited.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of twelve (12) inches or more in height of weeds, grasses, or worthless vegetation on any lot or piece of ground within the City or within its one (1)-mile zoning jurisdiction or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense.

(F) (1) Notice shall be given by regular first class mail to the address on file for utility services, and if there are not City utilities being delivered to the property, notice shall be served by personal service or certified mail to the owner or occupant. If either method is unsuccessful, notice shall be conspicuously posted on the premises. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five (5) 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 fourteen (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 (5) business days after the conclusion of the hearing. If the appeal



fails, the City may have such work done. Within five (5) 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.

(2) The cost and expenses of any such work shall be paid by the owner. If unpaid for two (2) months after such work is done, the City may either:

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

(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and adjoining streets and alleys.

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

**LITTER.** Includes but is not limited to:

(a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;

(b) Wood, plaster, cement, brick, or stone building rubble;

(c) Grass, leaves, and worthless vegetation except when used as ground mulch or in a compost pile;

(d) Offal and dead animals; and

(e) Any machine or machines, vehicle or vehicles, 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.

**WEEDS.** Includes but are 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.) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).  
(*Ref. 17-563 RS Neb.*) (*Ord. No. 1163, 6/12/17*) (*Amended by Ord. No. 1207, 7/9/18*)

**§ 4-903 NUISANCES; ABATEMENT.**

It shall be the duty of every owner, occupant, tenant, lessee, or mortgagee of real estate in the Municipality to keep such real estate free from public nuisances. Whenever the City determines that any nuisance as defined in §§ 4-901 and 4-902 is being maintained, the City Clerk shall cause written notice to abate to be served upon the owner of the property on which such nuisance is located, and further, upon the occupant thereof by first class mail in an envelope marked conspicuously as to its importance. The address used for the occupant shall be the same address as is used for the City utility billing purposes. The address used for the owner shall be the address used by the County Treasurer for property tax purposes. Such notice shall state that the City has determined that a nuisance is being maintained on the property and must be removed or remedied within fifteen (15) days of receipt of notice. Such notice shall describe the property involved and shall define the nuisance that must be abated. (*Ord. No. 271, 4/26/77*) (*Amended by Ord. Nos. 833, 11/27/01; 1084, 7/28/14; 1116, 5/9/16*)

**§ 4-904 NUISANCES; FAILURE TO CORRECT.**

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice set forth above, he/she shall be guilty of a misdemeanor and fined in any sum not to exceed five hundred (\$500.00) dollars. Each day's violation after the expiration of the fifteen (15) days notice shall be a separate and distinct offense. (*Ord. No. 271, 4/26/77*) (*Amended by Ord. No. 833, 11/27/01*)

**§ 4-905 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. No. 456, 12/9/86*)

**§ 4-906 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 within the corporate limits of the City or within its one (1)-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 (5) 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



office of the City Clerk. A hearing on the appeal shall be held within fourteen (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 (5) business day 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 (5) 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. (*Ref. 17-555 RS Neb.*)

(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 (1)-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 authority to enter upon private property to inspect the trees thereon. (*Ord. No. 670, 3/14/95*) (*Amended by Ord. No. 1164, 6/12/17*)

#### **§ 4-907 NUISANCES; COST OF REMOVAL.**

If the owner or occupant of the lot or piece of ground fails to comply with the order to abate and remove the nuisance within fifteen (15) days from receipt of the notice to abate, the City may have such work done and the cost and expense of such work shall be paid by the owner of the property. If unpaid for two (2) 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 benefitted 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.  
(*Ord. No. 833, 11/27/01*)



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***RESIDENTIAL RENTAL CERTIFICATE OF OCCUPANCY AND INSPECTION PROGRAM*****§ 4-950 TITLE.**

The title of this subchapter shall be known as the Residential Rental Certificate of Occupancy and Inspection Program. (*Ord. No. 1106, 12/28/15*)

**§ 4-951 DEFINITIONS.**

For purposes of this subchapter, the following definitions shall apply:

CERTIFICATE OF OCCUPANCY. A permit issued by the City, pursuant to this subchapter and any regulations promulgated by the Code Enforcement Officer that permits under this section an owner to rent or lease a rental unit.

CODE ENFORCEMENT OFFICER. The Code Enforcement Officer of the City of Stromsburg.

OWNER. Any person who owns one (1) or more rental units.

PERSON. Any individual or business entity.

RENTAL UNIT. Any residential dwelling within the City's jurisdiction that is rented or leased to tenants for residential purposes on a non-transient basis (when one (1) or more tenants reside on the property or rents or leases the property for thirty (30) consecutive days or longer) and which is owned in whole or in part by an owner. (*Ord. No. 1106, 12/28/15*)

**§ 4-952 RULES OF CONSTRUCTION.**

This subchapter shall be liberally construed and applied to promote its underlying purpose, which is to encourage the maintenance and improvement of the quality of rental housing in the city. (*Ord. No. 1106, 12/28/15*)

**§ 4-953 COMPLIANCE.**

No person shall occupy or maintain a rental unit unless in accordance with the provisions of this subchapter. (*Ord. No. 1106, 12/28/15*)



**§ 4-954 SCOPE.**

This section shall apply to all rental units, but shall not apply to the following:

(A) Facilities administered by the Stromsburg Housing Authority;

(B) Occupancy by the purchaser of a dwelling unit under a contract of sale;

(C) Transient occupancy in hotel, motel, bed and breakfast or other similar lodgings;

(D) Persons who reside in single-family dwelling unit but who wish to lease to individuals or a family while they are absent from the City for short periods of time, not to exceed one (1) year, and who intend to return to their single-family dwelling unit at the expiration of the lease period;

(E) Persons who occupy the premises and rent to no more than two (2) occupants; provided that this does not apply to basements, attics, or garages which are used as habitable spaces;

(F) Nursing homes licensed by the State of Nebraska, whether or not the unit provides skilled or assisted care or residential living units;

(G) Residential dwellings owned by a church for occupancy by its pastor;

(H) Residential dwellings occupied by a parent, child, grandparent or grandchild of the owner of the property;

(I) Dwelling units occupied by parents holding a reserved life estate in the property;

(J) Rental units which have been inspected and approved by the Housing and Urban Development (HUD) provided that a copy of said inspection has been given to the City. (*Ord. No. 1106, 12/28/15*)

**§ 4-955 CERTIFICATE OF OCCUPANCY; REQUIREMENT.**

On or after March 1, 2016 no person may use real estate for the purpose of erecting or maintaining a rental unit thereon without having first obtained a certificate of occupancy from the office of the Code Enforcement Officer pursuant to this subchapter. (*Ord. No. 1106, 12/28/15*)

**§ 4-956 CERTIFICATE OF OCCUPANCY; FORM.**

The form of the certificate of occupancy shall be as determined by regulations promulgated by the Code Enforcement Officer. (*Ord. No. 1106, 12/28/15*)



**§ 4-957 CERTIFICATE OF OCCUPANCY; APPLICATION; DURATION.**

(A) Any owner wishing to rent or lease a rental unit must apply for a certificate of occupancy with the office of the Code Enforcement Officer. The application shall be in a form as determined by the Code Enforcement Officer, and shall require the following information:

- (1) Name of owner;
- (2) Mailing address of owner;
- (3) Street address of owner;
- (4) Street address of rental unit(s);
- (5) Brief description of type and number of rental unit(s);

(6) Name and address of owner's agent, if any, authorized to receive notification of complaints, damages, emergencies, substandard conditions or other communications, including service of process. The address of any agent so designated shall be within this State. Any owner who does not reside in the State of Nebraska shall be required to designate a resident agent;

(7) Certificate of occupancy fee of twenty-five dollars (\$25.00) for the initial rental unit, plus five dollars (\$5.00) for each additional rental unit owned by the owner. Such fees are compensation for necessary paperwork and work to inspect rental units.

(B) The application shall be signed by the owner. Whenever ownership of a rental unit changes, the new owner shall complete a new application and must be issued a new certificate of occupancy. Notification of the owner or owner's agent at the address shown on the application shall constitute sufficient notice pursuant to any provision of this subchapter. Each certificate of occupancy shall be valid for thirty-six (36) months following its date of issuance provided that the dwelling unit passed inspection. It is a violation of this subchapter for an owner to maintain a rental unit for which a certificate of occupancy has not been issued and is currently valid in accordance with this section.  
*(Ord. No. 1106, 12/28/15)*

**§ 4-958 CERTIFICATE OF OCCUPANCY; GENERAL INSPECTION.**

(A) In addition to the other requirements of this subchapter and any regulations promulgated by the Code Enforcement Official not in conflict with this subchapter, it shall be a requirement to obtain a certificate of occupancy to pass an inspection of the rental unit carried out by the office of the Code Enforcement Official. Such inspection shall require the rental unit to meet all applicable local and state

property maintenance provisions, and the inspection check list promulgated by the Code Enforcement Official. Each inspection shall apply to the certificate of occupancy issued for the rental unit inspected, and a new inspection shall be required for the issuance of a new certificate of occupancy following the expiration of a prior certificate of occupancy. Owners shall be notified in writing of any reason for failure of an inspection and disapproval of a certificate of occupancy. For rental units that do not pass the inspection, owners may request a re-inspection following correction of the issues identified by the Code Enforcement Official. There shall be no limit to the number of re-inspections authorized per rental unit, but there shall be an additional fee of one hundred dollars (\$100.00) per re-inspection for the second inspection and a fee of one hundred twenty-five dollars (\$125.00) for the third and subsequent re-inspection of the same dwelling unit. In the event that the owner of the property fails to be present for an inspection previously scheduled there shall be due to the City an inspection fee in the amount of one hundred dollars (\$100.00).

(B) Rental properties previously inspected by the City pursuant to the International Property Maintenance Code shall be issued a certificate of occupancy effective on the date the property passed the inspection. (*Ord. No. 1106, 12/28/15*) (*Amended by Ord. No. 1131, 4/10/17*)

#### **§ 4-959 SPECIAL INSPECTION.**

A special inspection may be done at the discretion of the Code Enforcement Official, upon the written, signed request of any resident of the City, any governmental agency, or the rental unit's tenant, the tenant's legal representative, the owner, or the owner's agent. A special inspection shall be confined to the defects complained of, if any, by the person requesting the inspection unless the Code Enforcement Official determines that the condition of the rental unit or premises has deteriorated since the last general inspection to such an extent that a complete inspection is required to effectuate the purposes of this subchapter, in which cases a complete new inspection of the entire rental unit and premises may be performed. If a complete general inspection is performed, a new certificate of occupancy shall be issued upon passage of the general inspection. (*Ord. No. 1106, 12/28/15*)

#### **§ 4-960 INSPECTION; ENTRY TO PREMISES.**

Unless waived by the owner or tenant, the following procedure shall be used to obtain entry to rental units for the purpose of any inspection. The owner shall be contacted and a date shall be established for inspection. The owner shall then furnish to the Code Enforcement Officer a current list of tenants in each affected rental unit. The Code Enforcement Officer shall then send a certified letter with return receipt requested and a stamped self-addressed postcard to each tenant so reported by the owner. If there is evidence that the tenant received the letter, but no other response is received from the tenant, consent to enter will be presumed. An official record shall be maintained of all notices. The owner shall be responsible for granting access for inspection upon presentation of a copy of the official record of





notices and responses. If either the tenant or the owner refuses entry for inspection after proper notification, the Code Enforcement Officer shall not inspect without first obtaining an inspection warrant from a court of competent jurisdiction. (*Ord. No. 1106, 12/28/15*)

#### **§ 4-961 RETALIATORY EVICTION PROHIBITED.**

It shall be a violation of this section for any owner or owner's agent to bring or threaten to bring an action for possession of the rental unit for the purpose of retaliating against a tenant for requesting a special inspection as provided for in § 4-960. (*Ord. No. 1106, 12/28/15*)

#### **§ 4-962 VIOLATION.**

In addition to any penalty that may be imposed pursuant to § 4-1001 of this chapter for any violation of the Code, the Code Enforcement Officer may:

(A) Declare a rental unit to be unsafe pursuant to the Property Maintenance Code, or take other action pursuant to that Code;

(B) Issue an emergency order where immediate action is required to protect the health and safety of the public or of the occupants of the rental unit;

(C) See any of the additional remedies which provide for an appropriate action or proceeding at law or in equity against the person responsible for the violation for the purpose of ordering the person to:

(1) Restrain, correct or remove the violation or refrain from any further execution of work causing a violation;

(2) Restrain or correct the erection, installation, or alteration of such structure;

(3) Require the removal of work in violation, or part thereof erected, construed, installed or altered in violation of, or not in compliance with, the provisions of this Code, or in violation of a plan or specification under which an approval, permit or certificate was issued. (*Ord. No. 1106, 12/28/15*)

#### **§ 4-963 APPEALS.**

Appeals of decisions of the Code Enforcement Officer pursuant to this subchapter may be had to the City Council, in the same manner as appeals of nuisance declarations pursuant to this Code. (*Ord. No. 1106, 12/28/15*)



**§ 4-964 CIVIL ENFORCEMENT.**

Any violation of this subchapter is hereby declared to be a nuisance under this Code, and as such may be abated in a manner as nuisances are now or may hereafter be abated pursuant to this Code.  
*(Ord. No. 1106, 12/28/15)*



## ARTICLE 10: PENAL PROVISION

### § 4-1001 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. No. 817, 6/13/00)*

