



AGENDA ITEM COVER SHEET

City Council Meeting

Date Submitted: 01/18/2022

DATE: 01/17/2022 **SUBMITTED BY:** Kyle Manley, City Attorney

ITEM: Consider enacting Ordinance 2145: An ordinance relating to nuisances and city hearings.

SUMMARY: Ordinance 2145 changes a number of things regarding nuisances to streamline and simplify the process for law enforcement and code enforcement officers and creates a new process and procedures for providing city hearings.

A new Chapter 2, Article 10 will be created that provides a process for all hearings that may be held by the City regardless of subject matter. This will make a uniform process for all situations where the rights of a citizen are being affected by city action.

Nuisances will be divided into three separate categories based on the general type of nuisance and the amount of due process that should be given to each type:

- Chapter 4, Article 3 Health Nuisances
- Chapter 6, Article 2 Public Nuisances
- Chapter 9, Article 5 Nuisance Buildings and Structures

A draft of the proposed new Articles is attached.

ACTION REQUESTED: The Council is requested to enact Ordinance 2145.

**ARTICLE 10
HEARINGS**

Section

- 2-1001. Hearings; definitions.
- 2-1002. Hearings; general provisions.
- 2-1003. Hearings; hearing officer.
- 2-1004. Hearings; hearing board.
- 2-1005. Hearings; hearing request; notice of hearing.
- 2-1006. Hearings; prehearing conference; prehearing order.
- 2-1007. Hearings; proceedings.
- 2-1008. Hearings; evidence; official notice.
- 2-1009. Hearings; orders; findings of fact; conclusions of law; notification.
- 2-1010. Hearings; official record; retention; review.
- 2-1011. Hearings; appeal.

2-1001 Hearings; definitions.

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) “Hearing” means any administrative, quasi-judicial, judicial, due process, or other proceeding in which the legal rights, duties, or privileges of an individual are being determined.
- (2) “Hearing board” means the group or assembly of persons tasked with determining issues of fact.
- (3) “Hearing officer” means the person adjudicating a hearing, contested case, or other proceeding provided for by law, whether designated as the presiding officer, administrative law judge, or some other title designation.

Source:

2-1002 Hearings; general provisions.

- (1) Except as otherwise prescribed by law, this Article shall apply to all hearings required or authorized by law to be held by the City.
- (2) The hearing process specified in this Article is independent of any concurrent or subsequent civil or criminal court action that the City may initiate.
- (3) Informal disposition of any proceedings may be made by stipulation, agreed settlement, consent order, or default.

Source:

2-1003 Hearings; hearing officer.

The City Administrator shall serve as the hearing officer and shall preside over all prehearing conferences, hearings, and other proceedings. The hearing officer may prepare and promulgate rules of practice and procedure, not inconsistent with this Article, governing the formal and informal procedures of hearing requests, notices, prehearing conferences, hearings, and any other matters covered by this Article.

Source:

2-1004 Hearings; hearing board

The hearing board shall consist of the mayor and two councilmembers. The two councilmembers shall be selected by the hearing officer from city council standing committees that oversee subjects reasonably related to the subject matter of the case.

Source:

2-1005 Hearings; hearing request; notice of hearing.

- (1) If any person has the right to request a hearing, such request must be in writing, in the form and manner prescribed by the City, and must be filed within the time specified in the notice of adverse action. Copies of the request for hearing shall be provided to the hearing officer, hearing board, city attorney, and any other interested party.
 - (a) For purposes of this section, notice of adverse action means any notice, order, or other correspondence by the City that informs the recipient of violations of law, city license suspension or revocation, or any other actions taken by the City that affect or may affect the legal rights, duties, or privileges of the recipient.
- (2) The City shall provide written notices of hearing to all interested parties by personal or residential service, by first-class or certified mail conspicuously marked as to its importance, or by electronic communication. The notice shall be given a reasonable amount of time prior to the date of the hearing and shall state the time, place, and issues involved, but if, by reason of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable.

Source:

2-1006 Hearings; prehearing conference; prehearing order.

- (1) The hearing officer may determine that a prehearing conference should be conducted to deal with such matters as exploration of settlement possibilities, preparation of stipulations, clarification of issues, rulings on identity and limitation of the number of witnesses, objections to proffers of evidence, determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, video conferencing, or other electronic means will be used as a substitute for proceedings in person, order of presentation of evidence and cross-examination, rulings regarding the issuance of subpoenas and discovery orders, and such other matters as will promote the orderly and prompt conduct of the hearing.
- (2) If the hearing officer determines a prehearing conference should be conducted, reasonable advanced written notice shall be given to all interested parties that includes:
 - (a) The names and mailing addresses of all parties and other persons to whom notice is being given;
 - (b) The names and titles of any counsel or employee of the city who will be attending the prehearing conference;
 - (c) The official case number or other reference number, the name of the proceeding, and a general description of the subject matter of the case;
 - (d) A statement of the time, place, and nature of the prehearing conference;
 - (e) A statement that a party who fails to attend or participate in a prehearing conference, hearing, or other stage of a proceeding or who fails to make a good faith effort to comply with a prehearing order may be held in default; and

- (f) Any other matters the hearing officer considers necessary or desirable to expedite the proceedings.
- (3) If a prehearing conference is held, the hearing officer shall issue a prehearing order incorporating the matters determined at the prehearing conference. If a prehearing conference is not held, the hearing officer may issue a prehearing order, based on the nature of the case, to regulate the conduct of the proceedings.
- (4) The hearing officer may conduct all or part of the prehearing conference by telephone, video conferencing, or other electronic means if each participant has an opportunity to participate in, to hear, and, if technically feasible, to see the entire conference while it is taking place.

Source:

2-1007 Hearings; proceedings.

- (1) All parties shall be afforded the opportunity to present evidence and argument with respect to the subject matter of the hearing. The order in which evidence and arguments are presented shall be determined by the hearing officer. Each party shall have the right to call witnesses and cross-examine those who testify and shall have the right to submit rebuttal evidence. The hearing officer may limit the testimony of any witness or the presentation of extraneous evidence.
- (2) All evidence, including reports and documents in the possession of the City of which it desires to avail itself, shall be offered and made a part of the record. No factual information or evidence other than the record shall be considered in the determination of the proceedings. Documentary evidence may be received in the form of copies or excerpts or may be incorporated by reference.
- (3) The hearing officer, at the request of any party or upon the hearing officer's own motion, may administer oaths, continue the hearing, and issue subpoenas and discovery orders in accordance with the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.
- (4) After all evidence has been presented, each party shall be afforded the opportunity to present a final argument. The length of time allotted for final arguments shall be determined by the hearing officer after giving due consideration to the nature and duration of the hearing and the amount of time requested by each party.
- (5) At the conclusion of the hearing, the hearing board shall deliberate on and determine any issues of fact and the hearing officer shall determine any issues of law. Issues of fact arise when a material allegation is denied or is considered denied or avoided because the party does not respond.
- (6) The hearing officer shall render a final order based on the findings of fact and conclusions of law. The order may be given on the date of the hearing or within a reasonable amount of time after the conclusion.

Source:

2-1008 Hearings; evidence; official notice.

- (1) The hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs and may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Hearings shall not be bound by the rules of evidence; however, the hearing officer shall give effect to the rules of privilege recognized by law.

- (2) The hearing officer and hearing board shall take official notice of the common law and the statutes of the State of Nebraska and the United States, the ordinances of the City of Crete, and any rules and regulations adopted and promulgated in accordance with federal, state, or local law. The hearing officer and hearing board may take official notice of cognizable facts and general, technical, or scientific facts within their specialized knowledge and may utilize their experience, technical competence, and specialized knowledge in the evaluation of all evidence presented to them.

Source:

2-1009 Hearings; orders; findings of fact; conclusions of law; notification.

- (1) Every decision and order adverse to a party to the hearing, rendered by the hearing officer, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.
- (2) The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. The conclusions of law shall be sufficiently set out with the findings of fact to support the order entered.
- (3) Parties to the hearing shall be notified of the decision and order in person or by first-class mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or their attorney of record.

Source:

2-1010 Hearings; official record; retention; review.

- (1) The City shall prepare and maintain an official record of each case, but it shall not be necessary to transcribe recordings or notes unless requested for the purpose of rehearing or appeal. The official record shall consist of:
 - (a) Notices of all proceedings;
 - (b) Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the City pertaining to the proceedings;
 - (c) The record of the hearing, including all exhibits and evidence introduced during the hearing, a statement of matters officially noticed by the hearing officer and hearing board during the proceeding, and all proffers of proof and objections and rulings thereon; and
 - (d) The final order.
- (2) Except as otherwise provided by law, the physical custody of the official record shall be maintained by the City for at least four years following the date of the final order. The City shall permit the parties to inspect the official record and obtain copies of it at their expense.
- (3) Except as otherwise provided by law, the official record shall constitute the exclusive basis for city action and for judicial review thereof.

Source:

2-1011 Hearings; appeal.

Pursuant to Neb. Rev. Stat. § 25-1901 et seq., the final order made by the hearing officer may be reversed, vacated, or modified by the district court through the filing of a petition in error.

Source:

ARTICLE 3
HEALTH NUISANCES

Section

- 4-301. Act, how cited.
- 4-302. Terms, defined.
- 4-303. Health nuisances; responsibility; general health nuisance.
- 4-304. Health nuisances; animal enclosures.
- 4-305. Health nuisances; contaminating waterways and drainways.
- 4-306. Health nuisances; odorous emissions.
- 4-307. Health nuisances; refuse.
- 4-308. Health nuisances; rubbish.
- 4-309. Health nuisances; sewage.
- 4-310. Health nuisances; stagnant water.
- 4-311. Health nuisances; notice and order to abate.
- 4-312. Health nuisances; abatement by City; special assessment.
- 4-313. Health nuisances; immediate threat; abatement by City; special assessment.

4-301 Act, how cited.

This Article shall be known and may be cited as the Health Nuisance Act.

Source:**4-302 Terms, defined.**

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) “Animal enclosure” means any enclosure, structure, building, land, or premises, or parts thereof, that houses or is intended to house animals.
- (2) “Garbage receptacle” means any durable bin, can, or container that is designed to, or reasonably capable of, storing and transporting refuse and rubbish and that has a tight-fitting, secure cover or lid.
- (3) “Health nuisance” means any condition or thing, or any combination of conditions or things, that:
 - (a) Endangers or creates a risk to the health or safety of others;
 - (b) Is detrimental to or causes an unreasonable threat to the environment;
 - (c) Offends the senses;
 - (d) Provides harborage for mice, raccoons, rats, or other vermin; or
 - (e) Renders other persons insecure in life, health, or the safe use of property;
- (4) “Health officer” means any peace officer, code enforcement officer, community service officer, or other city employee authorized by law or by the City Administrator to enforce the Health Nuisance Act and any other health laws, rules, or regulations.
- (5) “Occupant” means any tenant, lessee, or person in possession, charge, or control of a lot, premises, or piece of ground.
- (6) “Odorous emission” means any objectionable odor that is reasonably offensive to the senses.

- (7) “Property” means any lot, premises, or piece of ground.
- (8) “Refuse” means any malodorous, putrescible, or repugnant grain, meat, beef, pork, fish, fowl, hides, skins, feathers, or vegetable matter; the whole carcass or any part of a dead animal; any ashes, blood, offal, or decayed matter; any solid household, market, and industrial wastes; any creosote, oils, fuels, or tars; or any other odious substance.
- (9) “Rubbish” means any non-putrescible solid waste material, excluding ashes, such as paper, rags, cardboard, yard clippings, tree limbs or branches, mattresses or other bedding material, and construction or demolition debris such as metal, plaster, lumber, glass, plastic, brick, crockery, stone, or cement.
- (10) “Sewage” means any greywater, blackwater, or other household, industrial, or agricultural wastewater.
- (11) “Sewer system” means all pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or directing wastewater to an ultimate point for treatment or disposal.
- (12) “Stagnant water” means non-flowing, motionless, or stale water that has remained in a location for more than two days.
- (13) “Treatment works” means any plant or other works used for the purpose of treating, stabilizing, or holding wastewater.

Source:

4-303 Health nuisances; responsibility; general health nuisance.

- (1) It shall be the responsibility of every owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep such property and the streets and alleys adjacent to such property free and clear of health nuisances.
- (2) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to create, allow, or maintain any conditions or things, or any combination thereof, that constitute a health nuisance upon such property or upon the streets or alleys adjacent to such property.

Source:

4-304 Health nuisances; animal enclosures.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to allow any odorous emissions, offal, feathers, manure, or other animal waste materials to accumulate on or remain in any animal enclosure upon such property.
- (2) In addition to the abatement and removal of the health nuisance, the City may impound or otherwise take possession of any animals contained, or intended to be contained, within an animal enclosure that is deemed a health nuisance until such time as the health nuisance has been abated and removed. The owner or occupant of the property upon which the animal enclosure is located shall be responsible for the costs and fees associated with impounding and housing the animals.

Source:

4-305 Health nuisances; contaminating waterways and drainways.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to put, deposit, accumulate, or maintain any refuse, rubbish, or sewage (a) into any river, creek, waterway, or drainway; (b) into any ditch, gutter, or stormwater system that may ultimately discharge said items, or any part thereof, into any such waters; or (c) onto any location where said items, or any part thereof, may be carried into any such waters by the actions of the elements or otherwise.
- (2) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to put, throw, or deposit any refuse or rubbish into any sewer system or treatment works.
- (3) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to corrupt or render unwholesome or impure any river, creek, waterway, or body of water.

Source:

4-306 Health nuisances; odorous emissions.

It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to cause or allow any odorous emissions to radiate into any adjacent property or into adjacent streets or alleys.

Source:

4-307 Health nuisances; refuse.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to throw, deposit, accumulate, or maintain any refuse upon such property or upon the streets or alleys adjacent to such property.
- (2) Nothing in this section shall prohibit the temporary retention and storage of refuse within proper garbage receptacles that are located in a place and manner specified by the City.

Source:

4-308 Health nuisances; rubbish.

- (1) It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to throw, deposit, accumulate, or maintain any rubbish upon such property or upon the streets or alleys adjacent to such property.
- (2) Nothing in this section shall prohibit the temporary retention and storage of rubbish within proper garbage receptacles that are located in a place and manner specified by the City.

Source:

4-309 Health nuisances; sewage.

It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to release, deposit, accumulate, or allow any sewage upon such property or upon the streets or alleys adjacent to such property.

Source:**4-310 Health nuisances; stagnant water.**

It shall be unlawful and a health nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to create, accumulate, or maintain any stagnant water upon such property or upon the streets or alleys adjacent to such property.

Source:**4-311 Health nuisances; notice and order to abate.**

- (1) Health officers shall issue a written notice and order to abate and remove a health nuisance within twenty-four hours after learning of the existence of a health nuisance. Such notice and order shall be made by personal or residential service to any owner or occupant of the property upon which the health nuisance exists.
- (2) If personal service is unsuccessful, notice shall also be given by conspicuously posting the notice on the property upon which the health nuisance exists.
- (3) The notice and order to abate and remove a health nuisance shall include:
 - (a) The address or legal description of the property upon which the health nuisance exists;
 - (b) A full and detailed description of the health nuisance;
 - (c) The work that must be done to abate and remove the health nuisance;
 - (d) The length of the abatement period; and,
 - (e) Any other information required by the city attorney.

Source:**4-312 Health nuisances; abatement by City; special assessment.**

- (1) For health nuisances arising out of violations of sections 4-305, 4-306, 4-307, and 4-309, the owner or occupant shall have forty-eight hours after service to abate and remove the health nuisance.
- (2) For health nuisances arising out of violations of sections 4-303, 4-304, 4-308, and 4-310, the owner or occupant shall have five days after service to abate and remove the health nuisance.
- (3) If the owner or occupant fails to comply with the notice and order to abate and remove the health nuisance within the time period specified above, the City may have such work done.
- (4) The costs and expenses of any such work shall be paid by the owner of the property upon which the health nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

4-313 Health nuisances; immediate threat; abatement by City; special assessment.

- (1) If the City Administrator determines a health nuisance upon any property constitutes or may constitute an immediate threat or hazard to public health and safety, the City shall abate and remove, or cause the abatement and removal, of said health nuisance within twenty-four hours after notice by personal service.
- (2) The costs and expenses of abating and removing the health nuisance shall be paid by the owner of the property upon which the health nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

ARTICLE 2
PUBLIC NUISANCES

Section

- 6-201. Act, how cited.
- 6-202. Terms, defined.
- 6-203. Public nuisances; responsibility; general nuisance.
- 6-204. Public nuisances; abandoned vehicles.
- 6-205. Public nuisances; dead or diseased trees; low-hanging branches.
- 6-206. Public nuisances; furniture and household items.
- 6-207. Public nuisances; junk and vehicle parts.
- 6-208. Public nuisances; lawn sprinkling system.
- 6-209. Public nuisances; unlawfully parked vehicles.
- 6-210. Public nuisances; unregistered vehicles.
- 6-211. Public nuisances; weeds, grasses, and worthless vegetation.
- 6-212. Public nuisances; nuisance control officers.
- 6-213. Public nuisances; control officers; duties.
- 6-214. Public nuisances; notice and order to abate.
- 6-215. Public nuisances; hearing.
- 6-216. Public nuisances; abatement by City; special assessment.
- 6-217. Public nuisances; immediate threat; abatement by City; special assessment.

6-201 Act, how cited.

This Article shall be known and may be cited as the Public Nuisance Act.

Source:**6-202 Terms, defined.**

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) “Abatement period” means the prescribed time period within which the owner or occupant must abate and remove a public nuisance.
- (2) “General nuisance” means any condition or thing, or any combination of conditions or things, that:
 - (a) Creates a risk to the comfort, repose, or welfare of others;
 - (b) Offends decency;
 - (c) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway;
 - (d) Renders other persons insecure in the use of property;
 - (e) Materially interferes with the comfortable enjoyment of life and property; or,
 - (f) Tends to depreciate the value of the property of others.
- (3) “Junk” means (a) any old or scrap metal, rubber, or plastic or (b) any machine, appliance, furniture, or vehicle, or parts thereof, that have lost their identity, character, utility, or serviceability through deterioration, dismantling, or the ravages of time, that are inoperative or unable to perform their intended functions, or that are cast off, discarded, or thrown away or left as waste or wreckage.

- (4) "Occupant" means any tenant, lessee, or person in possession, charge, or control of a lot, premises, or piece of ground.
- (5) "Property" means any lot, premises, or piece of ground.
- (6) "Vehicle" means a motor vehicle, all-terrain vehicle, utility-type vehicle, minibike, trailer, or semitrailer.
- (7) "Vehicle parts" means any items, parts, or things which, in collection with others, constitute a vehicle.

Source:

6-203 Public nuisances; responsibility; general nuisance.

- (1) It shall be the responsibility of every owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep such property and the streets and alleys adjacent to such property free and clear of public nuisances.
- (2) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to create, allow, or maintain any conditions or things, or any combination thereof, that constitute a general nuisance upon such property or upon the streets or alleys adjacent to such property.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have five days after service to abate and remove the public nuisance.

Source:

6-204 Public nuisances; abandoned vehicles.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to allow, accumulate, or maintain any abandoned vehicles upon such property or upon the streets or alleys adjacent to such property.
- (2) For purposes of this section, abandoned vehicle means a vehicle as defined in Section 6-333.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have forty-eight hours after service to abate and remove the public nuisance.

Source:

6-205 Public nuisances; dead or diseased trees; low-hanging branches.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to permit, allow, or maintain any dead or diseased trees upon such property or upon the streets or alleys adjacent to such property.
- (2) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to permit, allow, or maintain any low-hanging branches in violation of Section 2-1513 upon such property or upon the streets or alleys adjacent to such property.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Source:**6-206 Public nuisances; furniture and household items.**

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to permit, allow, or maintain any furniture, household items, or discarded materials upon such property or the streets or alleys adjacent to such property for more than forty-eight hours.
- (2) For purposes of this section:
 - (a) “Discarded material” means any item or thing upon which or nearby is a placard, sign, or message offering the item to others.
 - (b) “Furniture” means any item or thing commonly used in a household as a seat, table, storage container, or platform.
 - (c) “Household items” means any items or things used within a household not otherwise described as furniture such as sports and fitness equipment, cooking tools, televisions, stereos, electronic devices, bicycles, and toys.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have forty-eight hours after service to abate and remove the public nuisance.

Source:**6-207 Public nuisances; junk and vehicle parts.**

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to put, deposit, accumulate, or maintain any junk or vehicle parts on such property or upon the streets or alleys adjacent to such property.
- (2) Nothing in this section shall prohibit the temporary retention and storage of junk or vehicle parts within proper garbage receptacles that are located in a place and manner specified by the City or at a licensed junk business or junk yard.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Source:**6-208 Public nuisances; lawn sprinkling system.**

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to allow any lawn sprinkling system to excessively overspray onto the sidewalks, streets, or alleys adjacent to such property.
- (2) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Source:

6-209 Public nuisances; unlawfully parked vehicles.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City to park, keep, or allow any vehicle to park upon such property except on lawful parking spaces as prescribed by the City's zoning regulations.
- (2) For public nuisances arising out of violations of this section, the owner or occupant shall have five days after service to abate and remove the public nuisance.

Source:

6-210 Public nuisances; unregistered vehicles.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to park, keep, or maintain any unregistered vehicles upon such property or upon the streets or alleys adjacent to such property.
- (2) For purposes of this section, unregistered vehicle means any vehicle not registered, in accordance with Nebraska law, more than thirty days after a transfer in ownership or after the expiration of the last registration period for which the vehicle was registered.
- (3) Nothing in this section shall prohibit the parking, keeping, or maintaining of unregistered vehicles within fully enclosed buildings or upon any commercially zoned property that is owned or occupied by a commercial enterprise operating in a lawful manner exclusively for the selling or repairing of vehicles.
- (4) For public nuisances arising out of violations of this section, the owner or occupant shall have ten days after service to abate and remove the public nuisance.

Source:

6-211 Public nuisances; weeds, grasses, and worthless vegetation.

- (1) It shall be unlawful and a public nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, accumulate, or maintain weeds, grasses, or worthless vegetation taller than twelve inches upon such property.
- (2) For purposes of this section:
 - (a) Weeds includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*); and
 - (b) Weeds, grasses, and worthless vegetation does not include vegetation applied or grown on property outside of the corporate limits of the City expressly for the purpose of weed or erosion control.
- (3) For public nuisances arising out of violations of this section, the owner or occupant shall have five days after service to abate and remove the public nuisance.

Source:

6-212 Public nuisances; nuisance control officers.

- (1) Nuisance control officers shall include all peace officers, code enforcement officers, community service officers, building inspectors, and other city employees authorized by law or by the City Administrator to enforce any laws, rules, or regulations relating to nuisances.
- (2) The Police Department shall train all nuisance control officers in the standard law enforcement policies and procedures for police reporting and the issuance of warnings, notices, orders, and citations.

Source:

6-213 Public nuisances; control officers; duties.

- (1) Nuisance control officers shall have the power and duty to enforce the Health Nuisance Act, the Public Nuisance Act, the Nuisance Building and Structure Act, and any other state or local law that relates to health nuisances, public nuisances, or nuisance buildings and structures or that declares conduct or any condition or thing to be a nuisance.
- (2) Nuisance control officers shall:
 - (a) Investigate any report or complaint about the existence of a public nuisance within forty-eight hours after receiving such report or complaint.
 - (b) Inspect all property within the corporate limits of the City and its extraterritorial jurisdiction to determine the existence of nuisances.
 - (c) Identify any violations of the Health Nuisance Act, the Public Nuisance Act, the Nuisance Building and Structure Act and any other state or local law that relates to nuisances.
 - (d) Issue notices and orders to abate and remove any nuisances pursuant to Section 6-214.
 - (e) Follow up on all notices and orders to abate and remove a nuisance within forty-eight hours after termination of the abatement period to determine whether the nuisance has been abated and removed.
 - (f) Provide any reports, pictures, information, or other evidence requested by the city attorney for hearings or the criminal prosecution of violations.
 - (g) Maintain all case records, including costs incurred, for the prescribed retention period before transferring such records to the city clerk for archiving or destruction.

Source:

6-214 Public nuisances; notice and order to abate.

- (1) Nuisance control officers shall issue a written notice and order to abate and remove a public nuisance to each owner or occupant of the property upon which a public nuisance exists. Such notice and order may be made by personal service, residential service, or first-class or certified mail conspicuously marked as to its importance.
- (2) Notice may also be given by conspicuously posting the notice on the property upon which the public nuisance exists.
- (3) The notice and order to abate and remove a public nuisance shall include:
 - (a) The address or legal description of the property upon which the public nuisance exists;
 - (b) A full and detailed description of the public nuisance;

- (c) The work that must be done to abate and remove the public nuisance;
- (d) The length of the abatement period;
- (e) The right of the owner or occupant of the property to request a hearing before the termination of the abatement period; and
- (f) Any other information required by the city attorney.

Source:

6-215 Public nuisances; hearing.

Before the termination of the abatement period, the owner or occupant of the property may request a hearing to appeal the notice and order to abate and remove a public nuisance by filing a written request with the City. Such hearing request shall be in the form and manner specified by the City.

Source:

6-216 Public nuisances; abatement by City; special assessment.

- (1) If the appeal fails or if the owner or occupant does not request a hearing and fails to comply with the notice and order to abate and remove a public nuisance, the City may have such work done.
- (2) The costs and expenses of any such work shall be paid by the owner of the property upon which the public nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

6-217 Public nuisances; immediate threat; abatement by City; special assessment.

- (1) If the City Administrator determines a public nuisance upon any property constitutes or may constitute an immediate threat or hazard to public health, safety, or welfare, the City shall abate and remove, or cause the abatement and removal, of said public nuisance within forty-eight hours after notice by personal service.
- (2) The costs and expenses of abating and removing the public nuisance shall be paid by the owner of the property upon which the public nuisance exists. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

ARTICLE 5

NUISANCE BUILDINGS AND STRUCTURES

Section

- 9-501. Act, how cited.
- 9-502. Terms, defined.
- 9-503. Nuisance buildings; building or structure in right-of-way.
- 9-504. Nuisance buildings; dilapidated building.
- 9-505. Nuisance buildings; unsafe building.
- 9-506. Nuisance buildings; zoning violations.
- 9-507. Nuisance buildings; notice and order.
- 9-508. Nuisance buildings; hearings; recording.
- 9-509. Nuisance buildings; abatement by City; special assessment.
- 9-510. Nuisance buildings; immediate threat; abatement by City; special assessment.

9-501 Act, how cited.

This Article shall be known and may be cited as the Nuisance Building and Structure Act.

Source:

9-502 Terms, defined.

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (1) “Dilapidated building” means any building or structure not in conformance with the Property Maintenance Code and that requires substantial remediation to conform to such Code.
- (2) “Occupant” means any tenant, lessee, or person in possession, charge, or control of a lot, premises, or piece of ground.
- (3) “Property” means any lot, premises, or piece of ground.
- (4) “Unsafe building” means any building, shed, fence, or other man-made structure that:
 - (a) Is dangerous to the public safety because of its condition;
 - (b) May aid in the spread of disease or cause injury to the health of its occupants or the occupants of neighboring buildings or structures;
 - (c) By reason of faulty construction, age, lack of proper repair or maintenance, or any other cause, constitutes or creates a fire hazard; or
 - (d) By reason of faulty construction, age, lack of proper repair or maintenance, or any other cause, is likely to cause injury or damage by the collapse or fall of all or any part of such building or structure.

Source:

9-503 Nuisance buildings; building or structure in right-of-way.

It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any building or structure in the streets or alleys adjacent to such property.

Source:

9-504 Nuisance buildings; dilapidated building.

It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any dilapidated building upon such property.

Source:

9-505 Nuisance buildings; unsafe building.

- (1) It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any unsafe building upon such property.
- (2) It shall be unlawful for the owner or occupant of any unsafe building to use or occupy such building or structure, or permit it to be used or occupied, while it is in an unsafe condition.

Source:

9-506 Nuisance buildings; zoning violations.

It shall be unlawful and a nuisance for the owner or occupant of any property within the corporate limits of the City or its extraterritorial zoning jurisdiction to keep, allow, or maintain any building or structure that violates the City's zoning regulations.

Source:

9-507 Nuisance buildings; notice and order; recording.

- (1) If any building or structure is determined to be a nuisance, the building inspector or city attorney shall issue a written notice and order to the owner and occupant of the property upon which the nuisance exists. Such notice and order may be made by personal service, residential service, or first-class or certified mail conspicuously marked as to its importance.
- (2) The notice and order shall include:
 - (a) The address or legal description of the property upon which the nuisance exists;
 - (b) A full and detailed description of the conditions or violations that must be repaired, remedied, or removed;
 - (c) The work that must be done to bring the building or structure into compliance with the applicable building codes or zoning regulations;
 - (d) The length of time the owner or occupant has to complete such work;
 - (e) The hearing rights of the owner and occupant; and
 - (f) Any other information required by the city attorney.
- (3) If, at any time, a building or structure is deemed unsafe or unfit for human occupancy because of one or more violations of the City's minimum standard housing regulations, if any, or is deemed unsafe because of one or more violations of the City's building codes, notice shall be posted on the property and a copy of the determination shall be filed in the office of the Saline County Register of Deeds to be recorded and indexed against the property.

Source:

9-508 Nuisance buildings; hearing.

- (1) Upon receiving the notice and order, the owner or occupant of the property may request a hearing to present evidence and argument rebutting the determination that the condition or status of the building or structure is dilapidated or unsafe or that it violates the City's building codes or zoning regulations. Such a hearing request shall be in writing and in the form and manner specified by the City.
- (2) If the owner or occupant does not request a hearing and fails to comply with the notice and order, the City shall schedule a hearing and provide written notice thereof to the owner and occupant of the property.

Source:

9-509 Nuisance buildings; abatement by City; special assessment.

- (1) If, after the hearing, the determination is upheld and the owner or occupant of the property fails, neglects, or refuses to comply with the final order that was issued, the City may have such work done.
- (2) The costs and expenses of any such work shall be paid by the owner of the property. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source:

9-510 Nuisance buildings; immediate threat; abatement by City; special assessment.

- (1) If the building inspector and city administrator determine a building or structure upon any property constitutes or may constitute an immediate threat or hazard to public health, safety, or welfare and the owner or occupant fails to remedy the situation within a reasonable amount of time after notice by personal service, the City shall abate and remove, or cause the abatement and removal, of said threat or hazard.
- (2) The costs and expenses of abating and removing the threat or hazard shall be paid by the owner of the property. If the costs and expenses remain unpaid for more than two months after the work is done, the City may either levy and assess the costs and expenses of the work upon the property so benefited as a special assessment or recover the costs and expenses in a civil action.

Source: