

**Municipal Code of the City of Battle Creek, Nebraska**

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## **CHAPTER 4 – HEALTH AND SANITATION**

### **Article 1 – General Provisions**

#### **§4-101 HEALTH; REGULATIONS.**

For the purpose of promoting the health and safety of the residents of the City, 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 City Police Chief, as the Quarantine Officer, shall be the chief health officer of the City. It shall be his duty to notify the City Council and the Board of Health of health nuisances within the City and its zoning jurisdiction. (Ref. 17-121 RS Neb.)

#### **§4-103 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 City.

#### **§4-104 VIOLATION; PENALTY.**

Violations of sections 4-101 to 4-403 of this Code shall constitute an offense, and upon conviction thereof shall be punishable by a fine of \$50.00 for any first offense; and by a fine of \$100.00 for any second or subsequent offense thereof. This section supersedes the penalty found at section 4-501 of this Code. (Ord. No. 2001-002, 5/14/01)

### **Article 2 – Contagious Disease**

#### **§4-201 REPORT.**

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 24 hours after being called in for such care to the City 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 24 hours from the time the disease is recognized. (Ref. 71-503 RS Neb.)

#### **§4-202 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, 17-207 RS Neb.)

#### **§4-203 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, 17-207 RS Neb.)

## **Article 3 – Garbage Disposal**

(Article am. by Ord. No. 2010-008, 9/13/10)

### **§4-301 DEFINITIONS.**

“Garbage” shall mean rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that is intended for the preparation, use, cooking, dealing in, or storing of meat, fowl, fruit or vegetable, and dead animals rejected by rendering plants.

“Hazardous waste” shall mean a solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may (1) cause or significantly contribute to an increased in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or (2) pose a substantial present of potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

“Junk” shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper trash, rubber, debris, waste, dismantled or wrecked automobiles or parts thereof and other old and scrap ferrous or nonferrous material.

“Refuse” shall mean putrescible and nonputrescible solid wastes, except body wastes, and shall include garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial wastes.

“Rubbish” or “trash” shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind that will be a detriment to the public health and safety.

“Waste” shall mean sewage, industrial waste, and all other liquid, gaseous, solid, radioactive or other substances which may pollute or tend to pollute any air, land or waters of the State.

“Yard waste” shall mean grass, leaves, branches, dead trees, sticks, or garden plants.  
(Ref. 13-2016.01 RS Neb.) (Ord. Nos. 287, 3/13/95; 2009-008, 6/8/09)

### **§4-302 GARBAGE HAULING AND DISPOSAL; SERVICE MANDATORY.**

The City Council, in the interest of protecting the general health of the City, has deemed it necessary to enter into a contract for the hauling and disposal of garbage, rubbish and waste from the City and to make this service mandatory on all businesses and all persons residing within the city limits. As service is deemed necessary to protect the general health of the City, proof of actual use of the service by the customer shall not be a condition precedent to collecting the service charge for garbage hauling and disposal. Service shall be provided at least once a week. Rates for said service may be changed at any time by ordinance of the City Council.

#### **§4-303 GARBAGE, TRASH AND WASTE.**

It shall be unlawful for any person to keep in, on or about any dwelling, building or premises, or any other place in the City, 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 City unless the same is kept in durable bags in receptacles not exceeding a 96-gallon capacity toter or placed in a dumpster or similar container. All persons shall have their garbage removed at least once a week by the regular city solid waste system. Grass, leaves or worthless vegetation may be used as a ground mulch on in a compost pile and shall not be in violation unless injurious to the public health. (Ref. 19-2106, 17-123 RS Neb.)

#### **§4-304 DEAD ANIMALS.**

Every dead animal shall be immediately removed by its owner and if the owner of such animal cannot be found within two hours after discovery of the same, then such animal shall be removed by and at the expense of the City. Dead animals shall not be buried within the corporate limits of the City nor within one mile thereof nor in or above the course of groundwater that is used for drinking purposes by the City or its inhabitants. (Ref. 17-114, 17-123 RS Neb.)

#### **§4-305 HAZARDOUS WASTE.**

The City and the contractor for hauling and disposing of solid waste for the City shall not be responsible for removal of hazardous waste. No hazardous waste shall be placed in the regular disposal system. If any resident or business in the City has hazardous waste, it must be disposed of by a person or organization that is authorized and equipped to dispose of hazardous waste and must be disposed of in an area where hazardous waste is authorized by federal and state laws, rules or regulations. The following items are not to be disposed of in the regular disposal system or commingled with any of the items mentioned above: oil, paint, lead acid batteries, tires, fertilizer, chemicals, animal manure, household appliances, and oil waste.

#### **§4-306 GARBAGE, RUBBISH AND WASTE; DEPOSIT ON OTHER PREMISES.**

It shall be unlawful for any person to willfully, maliciously or negligently place or throw upon the premises of another any garbage, rubbish, waste or other matter to the annoyance of the owner or occupant thereon. (Ref. 19-2106, 28-523 RS Neb.)

#### **§4-307 BURNING; TRASH, GARBAGE, RUBBISH REGULATED; DEAD ANIMALS OR ANIMAL WASTE PROHIBITED.**

It shall be unlawful for any owner, occupant, lessee, or mortgagee of real estate in the City to dispose of trash, garbage, or rubbish by burning except on Tuesdays and Thursdays from the hours of 7:00 A.M. to 7:00 P.M. All fires must be extinguished and cease smoking or smoldering by 7:00 P.M. Dead animals and animal waste may not be disposed of by burning at any time within the city limits.

#### **§4-308 SOLID WASTE HAULING AND DISPOSAL; RATES.**

The City Council has the power and authority to fix the rates to be paid by the solid waste producers. All such fees shall be on file for public inspection at the office of the

City Clerk during office hours. No garbage service shall be furnished to any customer at a rate that is different from other customers of the same class or type.

#### **§4-309 SOLID WASTE HAULING AND DISPOSAL; EXCLUSIONS.**

Exclusions from the trash collection system will be granted on a case-by-case basis, if the City Clerk and/or City Council determine that the location or business requesting exclusion provide evidence of disposal of trash in an alternate legal manner.

#### **§4-310 SOLID WASTE HAULING AND DISPOSAL; BILLING; DELINQUENT PAYMENTS.**

(1) The City Clerk shall bill for said garbage hauling and disposal services monthly in arrears at such rates as determined according to ordinance. The solid waste disposal fee will be included as part of the monthly utility bill and will be payable in the same manner.

(2) Any amounts not paid when due (a) may be collected either from the person, firm, lessee, corporation or occupant of said property or the owner by appropriate legal action or following notice by regular U.S. Mail to the last known address of the property owner of record and an opportunity for a hearing, or (b) may be certified by the City Council to the County Treasurer and assessed against the premises, served and collected or returned in the same manner as other taxes are certified, assessed, collected and returned.

(3) For the purpose of this section, the property owner of record shall have 30 days from the date notice is mailed to the last known address of such property owner to request a hearing. If the owner requests a hearing within the time provided, a hearing date will be set by the City Council and notice shall be given to the owner not less than ten days prior to the time of the hearing. Such notice of hearing shall be by regular U.S. Mail to the last known address of the property owner of record.

#### **§4-311 GARBAGE AND REFUSE COLLECTION; AUTHORITY.**

The City Council 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.)

#### **§4-312 GARBAGE AND REFUSE COLLECTION; NOTICE, REMOVAL.**

Notice that removal of garbage or refuse is necessary shall be given to each 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.)

#### **§4-313 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 48 hours after notice by personal service or following receipt of a certified letter in accordance with Section 4-312 if such garbage or refuse has not been removed. (Ref 18-1303 RS Neb.)

#### **§4-314 GARBAGE AND REFUSE COLLECTION; LIEN.**

Whenever the 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 City Council assess the cost of the removal against such lot or land. (Ref. 18-1303 RS Neb.)

### **Article 4 – Nuisances**

#### **§4-401 GENERALLY DEFINED.**

A nuisance consists in doing any unlawful act, 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 City.
  - (5) In any way renders other persons insecure in life or the use of property, or
  - (6) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.
- (Ref. 18-1720 RS Neb.)

#### **§4-402 SPECIFICALLY DEFINED.**

The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

- (1) Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl.
- (2) Privies, vaults, cesspools, dumps, pit or like places which are not securely protected from flies or rats, or which are foul or malodorous.
- (3) 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.

(4) Animal manure in any quantity which is not securely protected from flies and the elements or which is kept or handled in violation of any ordinance of the City.

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

(6) 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.

(7) 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 any of said articles or materials create a condition in which flies or rats may breed or multiply, which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity thereof.

(8) Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are either 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 thereof.

(9) All places used or maintained: as junkyards or dumping grounds; for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind; 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; for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said 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.

(10) Stagnant water permitted or maintained on any lot or piece of ground.

(11) 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; 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 said places in which said animals are confined or said premises on which said 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 City or are maintained and kept in such a manner as to be injurious to the public health.

(12) All other things specifically designated as nuisances elsewhere in this Code.  
(Ref. 18-1720 RS Neb.)

#### **§4-403 ABATEMENT PROCEDURE.**

(1) It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the City to keep such real estate free of public nuisances. Upon determination by the Board of Health that said owner, occupant, lessee, or mortgagee has failed to keep such real estate free of public nuisances, the City Council shall thereupon cause notice to be served upon the owner, occupant, lessee, mortgagee or agent thereof, by publication and by certified mail. Such notice shall describe the condition as found by the Board of Health and state that said condition has been declared a public nuisance and that the condition must be remedied at once.

(2) If the person receiving the notice has not complied therewith or taken an appeal from the determination of the Board of Health within five days after receipt of certified mail or within five days after date of publication, whichever is later, the Board of Health shall notify the City Council of such non-compliance and the City Council shall, upon receipt of such notice, cause a hearing date to be fixed and notice thereof to be served upon the owner, occupant, lessee, or mortgagee, or agent of the real estate. Such notice of hearing shall be by personal service or certified mail and require such party or parties to appear before the City Council to show cause why such condition should not be found to be a public nuisance and remedied. A return of service shall be required by the City Council. Such notice shall be given not less than five days prior to the time of hearing, provided that whenever the owner, lessee, occupant, or mortgagee of such real estate is a non-resident or cannot be found in the State, then the City Clerk shall publish such notice of hearing for two consecutive weeks in a newspaper of general circulation in the City, the last publication to be at least one week prior to the date set for the hearing.

(3) Upon the date fixed for the hearing and pursuant to notice, the City Council shall hear all objections made by interested parties and shall hear evidence submitted by the Board of Health. If, after consideration of all of the evidence, the City Council shall find that the said condition is a public nuisance, it shall by resolution order and direct the owner, occupant, lessee, or mortgagee to remedy the said public nuisance at once; the party or parties may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the City Council shall be stayed. Should the owner or occupant refuse or neglect to promptly comply with the order of the City Council, the City Council shall proceed to cause the abatement of the described public nuisance. Upon completion of the work by the City, a statement of the cost of such provided, work shall be transmitted to the Council, which is authorized to bill the property owner or occupant, or to levy the cost as a special assessment against the land. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments. (Ref. 18-1720 RS Neb.)

#### **§4-404 JURISDICTION.**

The Mayor and Chief of Police are directed to enforce this City Code against all nuisances. The jurisdiction of the Mayor, Chief of Police, and court shall extend to, and the territorial application of this Chapter shall include, all territory adjacent to the limits of the City within one mile thereof and all territory within the corporate limits. (Ref. 18-1720 RS Neb.)



#### **§4-405 ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL.**

In cases of appeal from an action of the City Council condemning real property as a nuisance or as dangerous under the police powers of the City, the owners of the adjoining property may intervene in the action at any time before trial. (Ref. 19-710 RS Neb.)(Ord. No. 150, 10/14/85)

#### **§4-406 DEAD OR DISEASED TREES.**

(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.

(2) 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. For the purpose of carrying out the provisions of this section, the City Police shall have the authority to enter upon private property to inspect the trees thereon.

(3) 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, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the City may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed.

(Ref. 17-555, 18-1720, 28-1321 RS Neb.) (Ord. No. 286, 3/13/95)

### **Article 5 – Penal Provisions**

[Editor's Note: For penalty for violation of Article 1, General Provisions, see §4-104 of this Code.]

#### **§4-501 VIOLATION; PENALTY.**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. by Ord. No. 2009-007, 6/8/09)

#### **§4-502 ABATEMENT OF NUISANCE.**

Whenever a nuisance exists as defined in this Chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. 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 part of the judgment in the case. (Ref. 18-1,720, 18-1,722 RS Neb.)