

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

Article

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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, as the Quarantine Officer, shall be the chief health officer of the Municipality. It shall be his duty to notify the Governing Body and the Board of Health of health nuisances within the Municipality and its zoning jurisdiction. *(Ref. 17-121 RS Neb.)*

### **§ 4-103 HEALTH; STATE RULES.**

The “Rules and Regulations Relating to Public Health,” Department of Health of the State of Nebraska are hereby incorporated by reference when the same are applicable to the Municipality, in their present form and as they may hereafter be amended. Three (3) copies of each of the said pamphlets are filed at the office of the Municipal Clerk and shall be available for public inspection at any reasonable time. *(Ref. 18-132, 19-902 RS Neb.)*

### **§ 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.

### **§ 4-105 ADDITION OF FLUORIDE TO CITY’S WATER SYSTEM PROHIBITED.**

Fluoride shall not be added to the water system of the city. *(Ord. No. 873, 2/10/09)*



## ARTICLE 2: GARBAGE DISPOSAL

### § 4-201 WASTE AND REFUSE COLLECTION; DEFINITIONS.

"Commercial" shall mean a site primarily used for commercial or business purposes. This classification shall also apply to residential rental operations which: 1) Are not owner occupied; 2) Have four or more rental units; 3) Collect all rental unit waste in a central location; 4) Consist of a single, contiguous property; and 5) Are billable for waste disposal purposes in a single bill to the landlord.

"Curb Side Pickup" - shall mean normal pickup by Hauler of material in cans or bags not to exceed 35 gallon capacity, and/or 75 lb. in weight, per item, set by customer within two feet of the driving surface of the street or alley, as specified by Hauler.

"Customer" shall mean an owner and any occupant of any site, within the City limits of Plainview served by any utilities provided by the City of Plainview.

"Excessive Pickup" - shall mean above and beyond average service for the category, in the opinion of the Hauler or the City. Certain items beyond the normal capability of hauler's equipment may be refused regular pickup, and will require special arrangements by the owner.

"Residential" as used in this Article shall mean a site used only as a personal residence.

"Residential/Home Occupation Commercial" - a site used as a personal residence with a home occupation.

"Transfer station material" shall mean all those items of waste and refuse which will be accepted at the City's transfer station, including but not limited to all domestic waste, ashes (when bagged separately in plastic bags), bottles, cans and newspapers, as specifically defined by resolution of the City Council.

"Waste" shall mean all other types and definitions of waste shall apply as defined in the Nebraska Integrated Solid Waste Management Act.

"White goods" shall mean appliances such a refrigerators, air conditioners, stoves and freezers.  
*(Amended by Ord. No. 566, 9/22/93)*

**§ 4-202 WASTE AND REFUSE COLLECTION; RESIDENTIAL AND COMMERCIAL SERVICE, VIOLATIONS, LIENS.**

(1) The City has contracted for waste service for residential and commercial customers and hereby levies a charge for the same on the customer receiving the service. All basic charges shall be for curb side pickup, as defined in the Plainview Municipal Code.

(2) The charge for waste service shall be established and amended as necessary by resolution of the City Council, and shall be due and payable on a monthly basis, first for the period from the 15th of October, 1993 to the 15th of November, 1993, and monthly thereafter in combination with other utility billings.

(3) Any residential or commercial site which is connected to utility service but is not occupied and is not generating any waste will not be subject to a collection charge. Notice of commencement or discontinuation of service due to new occupant or occupant departure must be received by City at least 30 days before service and responsibility for billing terminates.

(4) All waste shall be subject to inspection, at the customer's property or other site determined by the Hauler, and any improperly disposed waste shall be returned to the customer and subject the customer to penalties as provided herein.

(5) Accumulation of waste on residential or commercial property, shall constitute a public nuisance, and subject the customer to prosecution for a nuisance as provided in the ordinances governing the same.

(6) Any amount that becomes delinquent in a customer's waste account shall become a lien on the real estate for which the service was furnished, in the same manner as a lien for delinquent utilities.

(7) Refusal to pay waste service billings, disposal or attempted disposal of illegal or unauthorized material in the transfer station, illegal dumping of waste or any other violations of waste disposal ordinances, resolutions or regulations shall be punishable by the fines and other remedies provided by the Nebraska Integrated Solid Waste Management Act; and IN ADDITION delinquency in payment of pickup charges shall result in immediate disconnect of water, sewer, and electrical service, in the same manner as if a delinquency has occurred in each of those services. *(Amended by Ord. No. 567, 9/22/93)*

**§ 4-203 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.) (Amended by Ord. No. 816, 3/9/04)*

**§ 4-204 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 air-tight 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.*)

#### **§ 4-205 DEAD ANIMALS.**

All dead animals shall be immediately removed and buried by the owner of such animals; and if the owner of such animal cannot be found within two (2) hours after discovering the same, then such animal shall be removed by and at the expense of the Municipality. Dead animals shall not be buried within the corporate limits of the Municipality, nor within one (1) mile thereof, nor in or above the course of ground water that is used for drinking purposes by the Municipality or its inhabitants. Such animals may, however, be buried in the Municipal Dumping Ground. (*Ref. 17-114, 17-123, RS Neb.*)

#### **§ 4-206 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.*) (*Ord. No. 492, 1118/88*)

#### **§ 4-207 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.*) (*Ord. No. 492, 1118/86*)

#### **§ 4-208 GARBAGE AND REFUSE COLLECTION; NUISANCE.**

If the Mayor/City Manager 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 4-207 if such garbage or refuse has not been removed. (*Ref. 18-1303 RS Neb.*) (*Ord. No. 492, 1118/88*)

**§ 4-209 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 R.S. Neb.*) (*Ord. No.492, 1118/88*)

**§ 4-210 SOLID WASTE; LIABILITY FOR CHARGES; PROOF OF PROPER DISPOSAL.**

(1) The Governing Body has separately established charges to be paid to it by each person whose premises are served by the municipal solid waste collection system. For purposes of such charges, a person's premises are deemed to be served by the municipal solid waste collection system and the owner and occupant of the premises shall be deemed served and therefore liable for the charges unless the owner or occupant proves to the Governing Body that:

(a) The premises are unoccupied; or

(b) The solid waste generated at the premises during the applicable billing period was lawfully collected and hauled to a permitted facility or was otherwise disposed of in conformance with all applicable laws, regulations, and ordinances.

(2) Proof of proper disposal during the applicable billing period may be provided by means of any of the following:

(a) A billing receipt or other statement from a duly permitted solid waste hauling service for collection of solid waste at the premises during the applicable billing period;

(b) A billing receipt or register tab from a duly permitted transfer station or disposal facility or landfill for solid waste received during the applicable billing period; or

(c) Such other documentation of proper disposal as may be acceptable to the Governing Body. (*Ref. 13-2020 RS Neb.*) (*Ord. No. 720, 4/8/99*)

**§ 4-211 TRANSFER STATION SITE; RATES.**

(A) All material not priced below “per item” must be weighed on certified scales and scale tickets provided to the city.

(B) The rates for the transfer station site shall be set as follows:

Transfer station site:

(1) *Trash other than roofing.*

(a) All material collected by City contract hauler (hauler paid by City of Plainview): \$51.00 per ton to the nearest one-half ton, or \$0.0255 per pound if below one (1) ton;

(b) All material collected and dumped by haulers other than City contracted hauler: \$54.00 per ton to the nearest one-half ton, or \$0,027 per pound if below one (1) ton;

(c) In all cases, \$5.00 minimum if charge per weight is less than that amount; and

(d) In all cases, material bagged and totally inside trash bags: \$2.00 per bag and need not be weighed.

(2) *Roofing.*

(a) From inside City limits: (\$59.00 per ton or part of a ton;

(b) From outside City limits: \$62.00 per ton or part of a ton.

*(Ord. No. 876, 6/16/09) (Amended by Ord. No. 923, 9/15/15)*

## ARTICLE 3: NUISANCES

### § 4-301 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. 17-123, 17-123.01, 18-1720, RS Neb.)*

### § 4-302 NUISANCES; 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, pits 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 Municipality.

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 Municipality, 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, or 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, 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 junk yards, or dumping grounds, or for the wrecking and dissembling 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 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 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 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 Municipality, 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. 17-123, 17-123.01, 18-1720 RS Neb.*)

**§ 4-303 NUISANCES; ABATEMENT PROCEDURE.**

It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the Municipality 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 Governing Body 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. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the Board of Health within five (5) days after receipt of certified mail or within five (5) days after date of publication whichever is later, the Board of Health shall notify the Governing Body of such noncompliance and the Governing Body 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 Governing Body 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 Governing Body. Such notice shall be given not less than five (5) 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 Municipal Clerk shall publish, in a newspaper of general circulation in the Municipality, such notice of hearing for two (2) consecutive weeks, the last publication to be at least one (1) week prior to the date set for the hearing. Upon the date fixed for the hearing and pursuant to notice, the Governing Body 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 Governing Body 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; Provided, the party or parties may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the Governing Body shall be stayed. Should the owner or occupant refuse or neglect to promptly comply with the order of the Governing Body, the Governing Body shall proceed to cause the abatement of the described public nuisance. Upon completion of the work by the Municipality, a statement of the cost of such work shall be transmitted to the Governing Body, 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. 17-121, 17-123, 17-123.01, 18-1720 RS Neb.*)

**§ 4-304 NUISANCES; JURISDICTION.**

The Mayor and Chief of Police of the Municipality are directed to enforce this Municipal 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 Municipality within one (1) mile thereof and all territory within the corporate limits. (*Ref. 18-1720 RS Neb.*)

**§ 4-305 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. 453, 10/8/85*)

**§4-306 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 Municipality 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, by personal service or certified mail. Within thirty (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 Municipality 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 benefitted in the same manner as other special taxes for improvements are levied or assessed. (*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 Municipality 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 municipal police shall have the authority to enter upon private property to inspect the trees thereon. (*Amended by Ord. No. 610, 2/14/95; 4-306, 12/8/15*)

## ARTICLE 4: PENAL PROVISION

### § 4-401 VIOLATION; PENALTY.

*(Repealed by Ord. No. 744, 7/11/00)*

*For penalty provisions, see section 12-101 of Chapter 12.*

### § 4-402 ABATEMENT OF NUISANCE.

(A) The owner or occupant of any real estate within the corporate limits or zoning jurisdiction of the Municipality shall keep such real estate free of nuisances. Except to the extent that conflicting procedures are otherwise provided, the procedures in this section shall apply to abatement of nuisances.

(B) Upon determination by the Board of Health or designated official that the owner or occupant of any such real estate has failed to keep the real estate free of nuisances, notice to abate and remove such nuisance and notice of the right to a hearing before the Governing Body 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 by certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the Municipality or by conspicuously posting the notice on the real estate upon which the nuisance is to be abated and removed. The notice shall describe the condition as found by the Board of Health or designated official and state that the condition has been declared a nuisance and must be remedied at once.

(C) If within five (5) days after receipt of such notice or publication or posting, whichever is applicable, the owner or occupant of the real estate does not request a hearing with the Municipality or fails to comply with the order to abate and remove the nuisance, the Municipality may have such work done.

(D) If within five (5) days after receipt of such notice or publication or posting, whichever is applicable, the owner or occupant requests in writing a hearing with the Governing Body, the Governing Body shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the Governing Body to show cause why such condition should not be found to be a nuisance and remedied. The notice shall be given not less than seven (7) nor more than fourteen (14) days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the Governing Body shall hear all

objections made by the owner or occupant and shall hear evidence submitted by the Board of Health or designated official. If after consideration of all the evidence, the Governing Body finds that the condition is a nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order to abate and remove the nuisance, the governing body may have such work done.

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

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

(2) Recover in a civil action the costs and expenses of the work upon the real estate and the adjoining streets and alleys. (*Amended by Ord. No. 4-402, 12/8/15*)