

CHAPTER 4

ARTICLE 1. GENERAL PROVISIONS

§4-101 HEALTH; REGULATION.

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 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. 17-208 RS Neb.)*

§4-102 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.

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ARTICLE 2. GARBAGE AND REFUSE DISPOSAL AND COLLECTION

§4-201 SOLID WASTE DISPOSAL; DEFINITIONS; GARBAGE.

The term “garbage” as used herein shall be defined to mean rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruits, or vegetables.

§4-202 SOLID WASTE DISPOSAL; DEFINITIONS; RUBBISH.

The term “rubbish” as used herein shall mean non putrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety.

§4-203 SOLID WASTE DISPOSAL; DEFINITIONS; HAZARDOUS WASTE.

The term “hazardous waste” as used herein shall be defined to mean any waste designated or defined as a hazardous waste by N.A.C Title 128—Rules and Regulations Governing Hazardous Waste Management in Nebraska which for purposes or general definition is a solid waste which, because of quantity, concentration, or physical, chemical or infectious characteristics may: (a) Cause or significantly contribute to, an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or (b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

§4-204 SOLID WASTE DISPOSAL; DEFINITIONS; REFUSE.

The term “refuse” as used herein shall mean putrescible and non-putrescible solid wastes, except body wastes, and include garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, industrial wastes, and other such wastes. (*Ref. 19-2106 RS Neb.*)

§4-205 SOLID WASTE DISPOSAL; DEFINITIONS; SOLID WASTE.

The term “solid waste” as used herein shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations, and from community activities. (*Ref. 18-1752 RS Neb*)

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§4-206 SOLID WASTE DISPOSAL; DEFINITIONS; YARD WASTE.

The term “yard waste” as used herein shall mean grass and leaves. ((*Ref. 13-2016.01, 18-1752 RS Neb*)

§4-207 SOLID WASTE DISPOSAL; MANDATORY SERVICE.

Every occupied residence and every commercial, institutional, multiple residence, apartment, hotel, motel, and governmental building or premises in which day-to-day activities are conducted within the Municipality shall be served by a solid waste collection and disposal service system either privately contracted or that may be offered by the Municipality and shall be subject to the assessment and payment of charges for such service as may be set from time to time by the Governing Body.

§4-208 SOLID WASTE DISPOSAL; COLLECTION AND DISPOSAL.

The Municipality of Eagle may elect to provide or contract for the collection and disposal of nonhazardous solid waste from residential, commercial, institutional, and governmental premises. Such wastes would be collected on a regularly scheduled basis, approved by the Governing Body, and would be disposed of only in a licensed landfill facility approved by the Governing Body which meets all applicable state and federal criteria. (*Ref. 18-1752 RS Neb.*)

§4-209 SOLID WASTE DISPOSAL; SERVICE CHARGES; DELINQUENCY; COLLECTION.

If the charges for solid waste collection and disposal service established pursuant to this Code are not paid when due, such sum may be recovered by the Municipality in a civil action or, following notice by regular United States mail to the last known address of the property owner of record and an opportunity for a hearing, may be certified by the Governing Body 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. (*Ref. 18-1752 RS Neb.*)

§4-210 SOLID WASTE DISPOSAL; HAZARDOUS WASTE OR WASTE REQUIRING SPECIAL HANDLING.

Any person, firm or corporation within the Municipality who generates or creates hazardous waste or waste requiring special handling or disposal shall be responsible for the transportation and disposal of the same. All such handling and disposal shall in all respects comply with applicable state and federal laws and regulations pertaining to the specific type of waste generated.

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§4-211 SOLID WASTE DISPOSAL; NUISANCE; ABATEMENT.

It shall be unlawful, and declared to be a nuisance, for any person to keep in, on, or about any dwelling, building, or premise, or any other place within 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 Eagle unless the same is kept in receptacles as nearly air-tight as may be practical. It shall be unlawful, and declared to be a nuisance, to throw or sweep into streets, alleys, parks, or other public grounds any dirt, paper, nails, pieces of glass, refuse, or rubbish of any kind. Any person having garbage, refuse, or rubbish 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 tight at its opening

The Municipality 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.

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 Municipality 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.

If the Chairperson of the Board or a duly empowered of the Health Board, 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 Municipality 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 as set forth above of this section if such garbage or refuse has not been removed.

Whenever the Municipality removes any garbage or refuse, or causes it to be removed, from any lot or land pursuant to this section, it shall, after a hearing conducted by its Governing Board, may place a lien against such premises, assessing the cost of the removal against such lot or land.

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§4-212 SOLID WASTE DISPOSAL; MANDATORY SERVICE COLLECTION RATES.

The Governing Body of the Municipality may establish rates for single family dwellings, multiple family dwelling units, and rates for commercial customers. The Governing Body may create additional categories from time to time and may modify said rates from time to time. The Governing Body may provide a discount for senior citizen rates. The adoption of said modification of said rates and rate structure shall be by Resolution of the Governing Body from time to time.

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ARTICLE 3. NUISANCE

§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 render dangerous for passage any stream, public part, parkway, square, street, or highway in the Municipality;
5. In any way renders other persons insecure in life or the use of property; or
6. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others. (*Ref. 18-1720 RS Neb.*)

§4-302 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-putrifying 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,

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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 or 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 material when any of said articles of 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 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. 18-1720 RS Neb.*)

§4-303 NUISANCES; ABATEMENT PROCEDURE.

(1) 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

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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 personal service or by certified mail. Such notice shall describe the condition found by the Board of Health and state that said condition has been declared a public nuisance, and that the condition must be abated and removed at once.

(2) Within five (5) days after receipt of such notice, if the owner, occupant, lessee, or mortgagee, or agent thereof of real estate does not request a hearing, as set forth below, or fails to comply with the notice to abate and remove the nuisance, the Municipality may have such work done and may levy and assess the costs and expenses of the work upon the real estate so benefited in the same manner as other special taxes for improvement are levied and assessed. The Municipality may also take penal action and the provision for violations and penalties under this Chapter shall be followed.

(3) If said owner, occupant, lessee, or mortgagee or agent requests in writing a hearing with the Governing Body, 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.

(4) Upon the date fixed for the hearing 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 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; Should the owner or occupant refuse or neglect to promptly comply with the order of the Governing Body, the Governing Body may proceed to cause the abatement of the desired 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. Said special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments. The Municipality may also take penal action and the provision for violations and penalties under this Chapter shall be followed. (*Ref. 18-1720 RS Neb*)

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§4-304 NUISANCES; JURISDICTION.

The Health Board is directed to enforce this Municipal Code against all nuisances. The jurisdiction of the Health Board, Governing Body 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; 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 Municipality.
- (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 Municipality. For the purpose of carrying out the provisions of this section, the Municipal Law Enforcement 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 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 benefited in the same manner as other special taxes for improvements are levied or assessed. (*Ref. 17-555, 18-1720, 28-1321 RS Neb.*)

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ARTICLE 4. NOISE CONTROL

§4-401 EXCESSIVE NOISE; FINDING; DECLARATION.

It is found and declared that:

- A. The making and creation of excessive, unnecessary or unusually loud noises within the corporate limits of the Municipality is a condition that exists and the extent and volume of such noises is increasing;
- B. The making, creation or maintenance of such excessive, unnecessary or unusually loud noises which are prolonged, unusual or unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the inhabitants of the Municipality; and
- C. The necessity in the public interest for the provisions and prohibitions concerning noise which are hereinafter contained is hereby declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the Municipality and its inhabitants. (*Ref. 17-556 RS Neb.*)

§4-402 EXCESSIVE NOISE; PROHIBITED.

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the corporate limits of the Municipality; provided, this section shall not apply to noise that by section 4-404, is declared to be exempt from the provisions of this section, or to noise caused or permitted by a person to whom a permit has been granted as provided in section 4-405. (*Ref. 17-556 RS Neb.*)

§4-403 EXCESSIVE NOISE; STANDARDS; PARTICULAR NOISES.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of section 4-402, but such enumeration shall not be deemed to be exclusive:

- A. Animals, Birds, Miscellaneous Pets. The keeping of any animal or bird which by causing frequent or long continued noise, including barking, shall disturb the comfort or repose of any person in the vicinity;

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- B. Defect in Vehicles, Load. The operation of any motor vehicle, motorcycle, or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise;
- C. Horns; Signaling, Other Devices. The sounding of any horn or signaling device on any motor vehicle, motorcycle, or other vehicle on any street or public place of the Municipality, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound and unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device by which traffic is for any reason held up;
- D. Pile Drivers, Hammers, Equipment. The operation between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise;
- E. Quiet Zones. The creation of an excessive noise within any quiet zone established by the Governing Body which unreasonably interferes with the use of the premises, or disturbs or unduly annoys occupants or users of the premises for the benefit of whom the quiet zone has been established;
- F. Shouting, Hollering. Shouting or loud hollering which unreasonably interferes with the comfort or response of any person in the vicinity; and
- G. Sound Reproduction. The use or operation of any radio or other mechanical or electrical devices or instruments amplifying and reproducing the human voice, or any sound or noise in any public or private place, or from any moving vehicle, in such manner that the peace and good order of the neighborhood are disturbed, or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed. Provided, the Governing Body may grant permission for the erection and use of temporary radio speakers, and other mechanical or electrical devices or instruments amplifying and reproducing the human voice, or any sound or noise at a fixed location, or on moving vehicles, as a part of a celebration or commemoration of a patriotic or historic event, or national or state holiday or local celebration, or at gatherings of public nature, and at such other times as the Governing Body may see fit; provided further, the Governing Body, in granting such permission, shall expressly designate the time such permission shall continue. (*Ref. 17-556 RS Neb.*)

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§4-404 EXCESSIVE NOISE; EXEMPTIONS.

The following noises shall be exempt from the provisions of section 4-402:

- A. Noises of safety signals, warning devices, and emergency pressure-relief valves;
- B. Noises caused by any Police or Fire Department vehicle or any authorized emergency vehicle when responding to any emergency call or acting in the time of emergency. (*Ref. 17-556 RS Neb.*)

§4-405 EXCESSIVE NOISE; SPECIAL PERMIT.

An application for a permit to cause or permit noise otherwise prohibited by section 4-403, on the basis of undue hardship, may be made to the Municipal Clerk or his or her duly authorized representative. Any permit granted hereunder shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective.

The Municipal Clerk, or his or her duly authorized representative, may grant the relief as applied for if he or she finds:

- A. That additional time is necessary for the applicant to alter or modify his or her activity or operation to comply with section 4-403, or
- B. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section, and
- C. That no other reasonable alternative is available to the applicant. The Municipal Clerk may prescribe any conditions or requirements he or she deems necessary to minimize adverse effects upon the community or the surrounding neighborhood. (*Ref. 17-556 RS Neb.*)

§4-406 EXCESSIVE NOISE; VIOLATIONS; PENALTIES.

Any person, persons, association or corporation violating any of the provisions of sections 4-401 through 4-405 shall, upon conviction be fined in the amount not to exceed five hundred dollars (\$500.00). (*Ref. 17-505 RS Neb.*)

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ARTICLE 5. PENAL PROVISIONS

§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 five hundred (\$500.00) dollars for each offense, recoverable with costs. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (*Ref. 17-207*)

§4-502 ABATEMENT OF NUISANCE.

Whenever a nuisance exists as defined in this Chapter, the Municipality 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 a part of the judgment in the case. (*Ref. 18-1720, 18-1722 RS Neb.*)