CHAPTER 4 – HEALTH AND SANITATION

Article 1 – General Provisions

§4-101 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. (Neb. Rev. Stat. §17-121)

§4-102 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.

§4-103 (Reserved for Future Use)

§4-104 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.

Article 2 – Refuse Disposal

§4-201 DEFINITIONS.

The following definitions shall be applied throughout this article. If not herein defined, the word or phrase shall have its common meaning.

"Ashes" shall mean the residues resulting from the burning of wood, coal, coke, or other combustible material.

"Disposal" shall include the storage, collection, handling, or disposal of refuse.

"Garbage" shall mean all animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of foods.

"Refuse" shall mean all solid wastes, except body wastes, and shall include garbage, ashes and rubbish.

"Refuse disposal area" shall mean the refuse disposal site as now established located south of said city and as described in the lease of said property according to the land records of Valley County.

"Rubbish" shall include glass, metal, paper, plant growth, wood, or solid wastes.

§4-202 STORAGE; PREPARATION OF REFUSE.

All refuse shall be drained free of liquids before disposal. Garbage shall be wrapped in paper or similar material. Rubbish shall be placed in approved containers or cut and baled, tied, bundled, stacked or packaged so as not to exceed 36 inches in length and 50 pounds in weight.

§4-203 STORAGE; CONTAINERS.

Each householder, person, or commercial establishment having refuse shall provide himself/itself with approved refuse containers and shall place and keep all refuse therein except as provided in Sections 4-202 and 4-205 relating to handling of rubbish. Refuse containers shall be (A) made of durable, watertight, rust-resistant material, having a close-fitting lid and handles to facilitate collection; or (B) garbage bags. Refuse containers for residences shall be not less than 10 gallons nor more than 32 gallons in capacity. Containers for commercial establishments shall not exceed 40 gallons in capacity. No burning barrels shall be allowed. It shall also be unlawful to permit the accumulation or residue of liquids, solids or a combination of such material on the bottom or sides of any container, the intention of this section being that the interiors of containers shall be kept clean by thorough rinsing and draining as often as necessary.

§4-204 STORAGE; PROHIBITION.

It shall be unlawful to place refuse in any street, alley, or any other public place or upon private property unless such refuse is placed in an approved container, except that rubbish may be stored as provided in Sections 4-202 and 4-205. (Neb. Rev. Stat. §19-2106)

§4-205 COLLECTION; PLACE OF COLLECTION.

Refuse containers shall, for the purpose of collection, be placed at ground level and be made readily accessible to the collector. They shall be placed on the side of the street from which collection is to be made. Notwithstanding the above provisions, householders, commercial establishments or other persons may by contract be permitted to place containers at agreed places upon their premises. All carry-outs shall be placed at streetside on the designated days. (Neb. Rev. Stat. §19-2106)

§4-206 COLLECTION; LICENSING OF COLLECTORS.

No person shall collect, remove, haul or convey for hire any refuse through or upon any of the streets of alleys of the City or dispose of the same in any manner or place, including the depositing thereof at the refuse disposal area, except a licensed collector. The collector's license shall entitle the licensee to collect garbage and refuse and deposit the same at the refuse disposal area. Application for a collector's license must be made by any applicant directly to the Mayor and City Council, describing and setting forth the equipment and vehicles proposed to be used, which equipment and vehicles must be of an enclosed cargo type or of better refuse disposal sophistication. No license shall be issued until the application shall be approved by the City Council and license fee paid. Collector's licenses shall be limited to no more than two licenses at any one time. The charges or fee for such collector's license shall be as established by resolution of the City Council. The license so issued to a collector may be revoked or canceled by the Mayor and Council for failure to comply with the provisions of this article or likewise upon frequent and reasonable complaints made in writing by the customers of said licensee, which complaints must be filed with the City Council. (Neb. Rev. Stat. §19-2105) (Am. by Ord. No. 429, 10/5/87)

§4-207 COLLECTION; MANAGEMENT FEES.

(A) For the purpose of raising revenue for the management of the contract for solid waste disposal for the City, a fee to be known as a management fee shall be levied monthly. Such fees for various classes of customers shall be set by the City Council and shall be on file in the office of the City Clerk, available for public inspection during office hours.

(1) Per residence of the City and per residence located outside the corporate limits but authorized to utilize the solid waste services of the City by the Mayor and Council.

(2) Per commercial and industrial business within the corporate limits and per non-resident commercial and industrial business authorized to utilize the solid waste services of the City by the Mayor and Council.

(3) There shall be no monthly charge for churches or part-time commercial businesses.

(4) If a commercial business is located within a residence, there shall be a combined management fee for the residence and commercial business.

(5) If a residence is located within a commercial business, there shall be a separate management fee for the residence and the commercial business, unless both the residence and commercial business are occupied by the same person. If both are occupied by the same person, there shall be a combined management fee.

(6) The owner of any apartment building or trailer park shall advise the City Clerk if he or she prefers to be billed a commercial rate (plus dumpster expense) or to bill each separate apartment or trailer lot. In any event, the owner of the property (landlord) shall be primarily responsible for payment of the monthly management fee.

(7) Any owner of commercial or residential property leased to tenants as commercial or residential property shall notify the City Clerk of any vacancy in such office or residential apartment/house/lot. Such office or apartment/house/lot shall be billed a monthly management fee unless the landlord has notified the City Clerk of any vacancy in such office. There shall be no prorating of any monthly management fee in the event vacancy should occur during the month in question. The landlord shall also notify the City Clerk within ten days of the tenancy of any such vacancy.

(B) All management fees and classification of users may be amended from time to time by resolution of the City Council. Any such resolution shall specifically refer to this ordinance and such resolution shall be incorporated herein by this reference.

(C) Each property owner shall be liable for all management fees herein.

(D) For ease of collection and payment, said management fee shall be added to the electrical statements of all appropriate electrical customers of the City and shall be due and payable and subject to the same terms and conditions as the statements of electrical customers of the City and in accordance with the applicable ordinances thereof. All residences and commercial and industrial businesses who are non-electric customers of the City and who are to pay the management fee set forth in Section 4-207 shall be sent a monthly statement for the said fee.

(E) In addition to all other remedies, if a property owner shall for any reason remain indebted to the City for management fees furnished, such amount due, together with any other amounts in arrears, shall be considered a delinquent management fee which is hereby declared to be a lien upon the real estate for which the same was used. The City Clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of management fees and assessments. A report of such unpaid accounts shall be submitted to the City Council at least once each year; the report shall be examined, and if approved by the Council shall be certified

by the City Clerk to the County Clerk to be collected as a special tax in the manner provided by law.
(Am. by Ord. Nos. 385. 7/9/84; 472, 1/6/ 92; 484, 4/5/93)

§4-208 DISPOSAL; PROHIBITED WITHIN CORPORATE LIMITS.

It shall be unlawful to dump, burn, destroy or otherwise dispose of refuse within the corporate limits of the City.

§4-209 DISPOSAL; PROHIBITED WHEN REFUSE DISPOSAL AREA CLOSED.

All permit holders and users of the refuse disposal area shall transport and convey their refuse in enclosed containers or by any such other means as shall not permit or allow the littering or spilling of any refuse upon any public street, road, alley or public and private property. No permit holder shall dispose of any refuse at the refuse disposal area when said area is closed to the public or when the entrance gate is locked unless special permission from the person or employee in charge of said disposal refuse area is obtained and granted.

§4-210 REMOVAL; 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. (Neb. Rev. Stat. §18-1303) (Ord. No. 436, 10/3/88)

§4-211 REMOVAL; NOTICE; ACTION BY CITY.

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. (Neb. Rev. Stat. §18-1303) (Ord. No. 436, 10/3/88)

§4-212 REMOVAL; 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 4-211 if such garbage or refuse has not been removed. (Neb. Rev. Stat. §18-1303) (Ord. No. 436, 10/3/88)

§4-213 REMOVAL; 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. (Neb. Rev. Stat. §18-1303) (Ord. No. 436, 10/3/88)

§4-214 TAMPERING OR REMOVAL OF REFUSE PROHIBITED.

No person other than licensed haulers or law enforcement officials shall remove, disturb, open or tamper with refuse of another. Any person violating this section shall be punished as provided in Section 4-501. (Ord. No. 509, 6/27/94)

§4-215 LIABILITY FOR CHARGES; PROOF OF PROPER DISPOSAL.

(A) The City Council has separately established charges to be paid by each person or business whose premises are served by the solid waste collection system. For purposes of such charges, a premises are deemed to be served by the 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 City Council that:

(1) The premises are unoccupied; or

(2) 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.

(B) Proof of proper disposal during the applicable billing period shall be provided to the City Clerk as follows:

(1) Residential premises shall be provided monthly at the time city utility bills are due.

(2) Commercial premises shall be provided weekly unless a special exemption is obtained from the City Council.

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

(1) 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;

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

(3) Such other documentation of property disposal as may be acceptable to the City Council.

(Neb. Rev. Stat. §13-2020) (Ord. Nos. 623, 4/5/99; 819, 2/4/13)

§4-216 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 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 Neb. Rev. Stat. §13-2039.

(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. (Neb. Rev. Stat. §13-2039)

(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. (Neb. Rev. Stat. §13-2039)

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

(4) "Yard waste" means grass and leaves. (Neb. Rev. Stat. §13-2016.01)
(Ord. No. 707, 6/14/04)

§4-217 UNLAWFUL DISPOSAL OF GARBAGE, REFUSE OR RUBBISH.

(A) It is unlawful to place garbage, refuse or rubbish into:

(1) A private business dumpster or other trash receptacle without the permission of the business owner

(2) Any dumpster, trash can or other trash receptacle of the City unless it is gar-

bage, refuse or rubbish used in the normal course of activity in the use of the City's parks and public areas and placed in a receptacle designated for public use or placed in a manner to clearly indicate it is intended for public use; and/or

(3) A private dumpster, trash can or other trash receptacle on a residential lot without the permission of the owner or occupier of the residence.

(B) Any person violating this section shall be punished as provided in Section 4-501 and may also be considered guilty of theft of services under Neb. Rev. Stat. §28-515. Both charges can be filed at the same time, constituting two separate offenses.
(Ord. No. 891, 5/1/17)

Article 3 – Nuisances

§4-301 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:

(A) Injures or endangers the comfort, repose, health, or safety of others;

(B) Offends decency;

(C) Is offensive to the senses;

(D) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the City;

(E) In any way renders other persons insecure in life or the use of property; or

(F) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.
(Neb. Rev. Stat. §18-1720)

§4-302 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:

(A) 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.

(B) Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.

(C) Filthy, littered or trash-covered cellars, houseyards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.

(D) 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.

(E) 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.

(F) 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.

(G) 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.

(H) Any buildings or structures which have any or all of the defects listed in Section 4-306 herein.

(I) All places used or maintained as junkyards 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.

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

(K) Dead or diseased trees.

(L) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure in which animals or fowl 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 City, or are maintained and kept in such a manner as to be injurious to the public health.

(M) Maintenance of weeds, grasses or worthless vegetation of 12 inches or more in height, or 8 inches or more in height on any lot or piece of ground located within the corporate limits during any calendar year if, within the same calendar year, the City has previously acted to remove weeds, grasses, or worthless vegetation exceeding 8 inches in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner. Weeds, grasses or worthless vegetation shall not be required to be kept at 12 or 8 inches or less if the lot on which said weeds, grasses or worthless vegetation are growing on has never been developed or is in the process of being developed. Any residential lots of 2 acres or more may have a portion of their lot dedicated to grasses appropriate for said lot as

determined by the Board of Sanitation. Weeds shall include, but not be 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*).

(N) All other things specifically designated as nuisances elsewhere in this code.
(Neb. Rev. Stat. §18-1720) (Ord. Nos. 532, 7/5/95; 832, 1/6/14; 850, 10/6/14; 890, 5/1/17)

§4-303 WEEDS AND OTHER NUISANCES (EXCLUDING DANGEROUS BUILDINGS); ABATEMENT PROCEDURE.

(A) WEEDS. It shall be the duty of the Chief of Police or his designee to determine when weeds or grasses constitute a public nuisance and require abatement. Whenever the Chief of Police or his designee determines that any weeds or grasses in excess of 12 inches or more in height, or 8 inches or more in height on any lot or piece of ground located within the corporate limits during any calendar year if, within the same calendar year, the city has previously acted to remove weeds, grasses, or worthless vegetation exceeding 8 inches in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner, are growing on property within the City, the Chief of Police or his designee shall give notice to mow, abate and remove such nuisance as follows: (1) to each owner, occupant, lessee or mortgagee or agent by certified mail; or (2) to the owner, occupant, lessee or mortgagee by personal service. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the City to appeal the order to mow, abate or remove the nuisance by filing a written appeal with the office of the City Clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the Board of Sanitation as hearing officer, who shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the City may have such work done unless such decision is appealed to the District Court. The hearing shall be conducted according to the provisions set forth in Section 4-312 (B) hereafter, except that the hearing shall be conducted by the Board of Sanitation instead of the City Council. Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to comply with the order to mow, or abate and remove the nuisance, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either (1) levy and assess 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 and assessed or (2) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(B) OTHER NUISANCES (Excluding Weeds and Dangerous Buildings). Upon determination by the Chief of Police or his designee that said owner, occupant, lessee, or mortgagee has failed to keep such real estate free of public nuisances, the Chief of Police or his designee shall give notice to abate and remove such nuisance as follows: (1) to each owner, occupant, lessee or mortgagee or agent by certified mail; or (2) to the owner, occupant, lessee

or mortgagee by personal service. Such notice shall describe the condition and state that said condition has been declared a public nuisance, and that the condition must be remedied at once. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the City to appeal the order to abate or remove the nuisance by filing a written appeal with the office of the City Clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the Board of Sanitation as hearing officer, who shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the City may have such work done unless such decision is appealed to the District Court. The hearing shall be conducted according to the provisions set forth in Section 4-312(B) hereafter. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the nuisance within five (5) days after receipt of notice, within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the City may either (1) levy and assess 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 and assessed or (2) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.
(Ord. Nos. 850, 10/6/14; 865, 9/1/15; 868, 2/1/16; 890, 5/1/17; 901, 2/5/18)

§4-304 SECOND OFFENSE.

In the event that an owner or agent of any property with the City shall have received a notice to correct or abate a nuisance within the past 12 months and is again charged with maintaining a nuisance, as defined herein, the City shall forthwith file a complaint against such owner or agent for maintenance of a nuisance with the County Court. (Ord. Nos. 850, 10/6/14; 865, 9/1/15; 868, 2/1/15)

§4-305 WEEDS OR OTHER NUISANCES; FAILURE TO CORRECT.

Any owner or occupant of premises within the City who maintains a nuisance as defined herein, except dangerous buildings, shall be guilty of a misdemeanor. Each day's further violation shall be a separate offense. (Ord. No. 850, 10/6/14)

§4-306 DANGEROUS BUILDINGS; DEFECTS.

Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:

(A) Those having walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;

(B) Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;

(C) Those with improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

(D) Those damaged by fire, wind, or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants of the people of the City;

(E) Those which have become dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein;

(F) Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein;

(G) Those having inadequate facilities for egress in the case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of communication;

(H) Those having parts thereof which are so attached that they may fall and injure persons or property;

(I) Those that are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of the City because of their condition;

(J) Those having been inspected by the County Health Department or a professional engineer appointed by the City which are, after inspection, deemed to be in violation of any provision of the Health Department rules and regulations or which are structurally unsafe or unsound as found by the inspection of the professional engineer;

(K) Those existing in violation of any provision of this article, any provision of the Fire Code, any provision of the county health rules and regulations or other applicable provisions of city ordinances, including but not limited to the building code adopted by the City.
(Ord. No. 850, 10/6/14)

§4-307 DANGEROUS BUILDINGS; BUILDING INSPECTOR.

A specially designated Building Inspector, his/her authorized representatives, or a professional Engineer shall, at the direction of the City Council:

(A) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in a dangerous or unsafe manner;

(B) Inspect any building or structure within the jurisdictional area of the City for the purpose of determining whether any conditions exist which render such place a dangerous or unsafe building or structure within the terms of this article;

(C) Report to the City Council the results of the inspection;

(D) Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.
(Ord. No. 850, 10/6/14)

§4-308 DANGEROUS BUILDINGS; STANDARDS.

In the event that it is determined that any building or structure is unsafe or dangerous, the following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated, or demolished:

(A) If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired.

(B) If the unsafe or dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(C) In any case where an unsafe or dangerous building or structure cannot be repaired so that it will no longer exist in violation of the terms or provisions of this article, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of an ordinance of this city, or state statute, it shall be demolished.
(Ord. No. 850, 10/6/14)

§4-309 DANGEROUS BUILDINGS; UNLAWFUL MAINTENANCE OF.

It is hereby determined unlawful to maintain a dangerous building within the corporate limits of the City or within its zoning jurisdiction. (Ord. No. 850, 10/6/14)

§4-310 DANGEROUS BUILDINGS; NUISANCE; PROCEDURE.

If the specially designated Building Inspector or his/her representatives or professional Engineer finds that a building or structure is unsafe or dangerous and a nuisance, the City Council shall:

(A) Notify the owner, occupant, lessee, mortgagee, agent or other persons having an interest in the building or structure that it has been found to be an unsafe or dangerous building. The notice will indicate whether the owner must vacate, repair or demolish the building or structure.

(B) Set forth in the notice a description of the building or structure deemed unsafe or dangerous, accompanied by a statement of the particulars which make the building or structure unsafe or dangerous and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable;

(C) Direct a City Employee to place a sign on the building or structure found to be unsafe or dangerous on its exterior near the main entrance which shall set forth that the building or structure is unsafe or dangerous for occupancy and use.
(Ord. No. 850, 10/6/14)

§4-311 DANGEROUS BUILDINGS; FAILURE TO COMPLY.

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure shall fail, neglect, or refuse to comply with the notice by or on behalf of the City to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance and fails to request a hearing on such determination, the City may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the City Council, which is authorized to levy the cost as a special assessment against the property or recover in a civil action against the property owner(s) the costs and expenses of the work. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. (Ord. No. 850, 10/6/14)

§4-312 DANGEROUS BUILDINGS; DISPUTES.

(A) In the event that the owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure disagrees with or disputes the information contained in the notice, such person shall notify the City Clerk with a written statement that sets forth the reasons for the disagreement or dispute and the relief requested. This written request shall be made within 14 days of mailing of the notice provided by Section 4-303 herein. If written notice is received by the City Clerk within 14 days of mailing or delivery of notice, a hearing shall be held before the City Council, either at a special meeting or at a regularly scheduled monthly meeting. The Clerk shall notify the person requesting the hearing, in writing, of the time, place, and date of such hearing.

(B) The hearing before the City Council shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and its decision shall be based on the evidence presented at the hearing. The person requesting the hearing may be represented by legal counsel or other representative, may present witnesses and offer evidence, and may examine and copy, at his/her own expense, and not less than three business days before the hearing, the records of the City regarding the inspection and notice. The City Council need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the Council shall be final unless appealed. Failure of the person to attend the hearing shall relieve the Council of any further procedures before action is taken as set forth in a notice. (Ord. No. 850, 10/6/14)

§4-313 DANGEROUS BUILDINGS; APPEAL.

Any person aggrieved by the decision of the City Council may appeal the decision to the District Court of Valley County, Nebraska. This appeal shall and must be taken within 30 days of the pronouncement of the Council's decision. (Ord. No. 850, 10/6/14)

§4-314 DANGEROUS BUILDINGS; IMMEDIATE HAZARD.

In the event the building constitutes an immediate hazard to the life or safety of any persons and must be demolished to protect their health or safety, the specially appointed Building Inspector or professional Engineer designated by the City Council shall report such facts to the Council. Upon receipt of such report the City, by and through the Council, may immediately contract for the immediate demolition of the unsafe or dangerous building without requiring bids. The cost of such emergency vacation and demolition of unsafe or dangerous buildings or structures shall be levied, equalized, and assessed, as are other special assessments. (Ord. No. 850, 10/6/14)

§4-315 DANGEROUS BUILDINGS; PENALTY.

Any person, firm or other legal entity maintaining a dangerous building within the corporate limits of the City or its zoning jurisdiction shall be guilty of violation of this ordinance and shall be fined in a sum not to exceed $500.00. Each day's violation shall constitute a separate offense. (Ord. No. 850, 10/6/14)

§4-316 UNLICENSED MOTOR VEHICLES AND MOTOR VEHICLE PARTS.

(A) It is hereby expressly found and determined that the practice of permitting unlicensed motor vehicles, motor vehicle bodies and motor vehicle chassis or parts therefrom to be stored or accumulated on private premises is unsightly and unhealthy and constitutes a nuisance to the citizens and residents of the City; provided, the storage or accumulation of such motor vehicles, motor vehicle bodies, and motor vehicle chassis or parts therefrom in a completely enclosed building shall not be considered a nuisance.

(B) No person in charge or control of any property within the City or within one-half mile thereof, other than municipal property, whether as owners, tenant, occupant, lessee or otherwise, shall store, retain or keep on, or permit to be stored, retained, or kept on any private premises any motor vehicle that has been unlicensed for a period in excess of thirty (30) days or allow any partially dismantled, inoperable, wrecked, junked or discarded vehicle to remain on such property; provided, this ordinance shall not apply to any motor vehicle, motor vehicle body, or motor vehicle chassis or parts therefrom kept in a completely enclosed building, or any complete motor vehicle that is covered completely with a fitted cover. Such fitted cover shall be constructed of a non-opaque and non-transparent material and shall completely cover such motor vehicle. A "fitted covering" shall be defined as a covering made specifically to cover a motor vehicle and not made for any other purpose. Said covering shall be attached in such a manner to prevent it from being removed by adverse weather conditions. If such covering is removed for any reason or by adverse weather, it shall be restored immediately.

(C) Any vehicle or parts thereof allowed to remain on such property in violation of this ordinance shall constitute a nuisance and shall be abated. The City Clerk or his/her duly designated officer of the City shall give written notice to the owner or occupant of the real property upon which such nuisance exists or abate the nuisance within ten (10) days. The notice to abate shall be served either in person, by mailing notice by certified or registered mail or by publication, or by affixing notice on such vehicle. Any publication notice shall be in a newspaper

of general circulation of the City which is published at least weekly; such notice shall be published once; and the time period shall run from the date of the publication. Upon failure to abate the nuisance within the time provided, the City may remove such vehicle or parts of any vehicle and sell the same at public sale. Notice of the sale shall be given in the same manner as notice to abate. Any proceeds from such sale shall be first applied to any expenses incurred by the City in removing, storing, and selling the vehicle or vehicle parts and the balance shall be paid to the General Fund of the City.

(D) This ordinance shall not apply to the premises for which permit has been granted to a junk dealer nor shall it apply to the premises where a licensed motor vehicle dealer, farm implement dealer or an automotive repair or restoration business conducts a business, if such business is the primary business conducted on such premises. This section also prohibits any private premises zoned as R-1 or R-2 from operating any of the above-mentioned businesses thereon.

(E) Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than $5.00 nor more than $100.00. Each day the premises is in violation will be deemed a separate offense and will be considered a 24-hour period from the time of the initial violation.
(Ord. Nos. 512, 9/6/94; 518, 10/11/94; 561, 6/2/97)

§4-317 JURISDICTION.

The jurisdiction of the Mayor, Police Chief, and Court shall extend to, and the territorial application of this article shall include, all territory adjacent to the limits of the City within one mile thereof and all territory within the corporate limits. (Neb. Rev. Stat. §18-1720) (Ord. No. 850, 10/6/14)

Article 4 – Air Pollution

§4-401 PROHIBITED.

It shall be unlawful for any person, firm, or corporation to permit the emission of smoke from any source that is injurious or offensive to the residents of the City in the judgment of the Board of Health. Air shall be considered to be polluted when the discharge into the open air of dust, fumes, gases, mist, odors, smoke, or any combination thereof is of such character and in such quantity which interferes with the health, repose, or safety of any group of persons, causes severe annoyance or discomfort, or is offensive and objectionable to normal persons and causes injury to real and personal property of any kind. The standards for air pollution established or adopted by the State of Nebraska shall be presumptive evidence as to when the air is deemed to be polluted under this section. It is hereby unlawful for any such person, firm, or corporation to permit or cause the escape of the aforesaid nuisances. The escape of the said dust, fumes, gases, mists, odors, and smoke is hereby declared to be a nuisance and shall be summarily abated upon written notice by the Board of Health to the violator. Such abatement may be in addition to the penalty for air pollution in the City. (Neb. Rev. Stat. §18-1720, 28-1321)

Article 5 – Penal Provision

§4-501 VIOLATIONS; PENALTY.

(A) (1) Any person or any person's agent or servant who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding $500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(2) Any violation of this chapter shall be waiverable and carry the penalty listed below, unless otherwise specifically provided herein;

1st offense	$ 50.00
2nd offense	100.00
3rd offense	150.00
4th offense	200.00
5th and subsequent offenses	250.00

(B) (1) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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.

(Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 645, 7/5/00; 846, 9/3/14)