

CHAPTER 4 – HEALTH AND SANITATION

ARTICLE 1 – GENERAL PROVISIONS

- 4-101 HEALTH; REGULATIONS**
- 4-102 HEALTH; ENFORCEMENT OFFICIAL**

ARTICLE 2 – SOLID WASTE DISPOSAL

- 4-201 DEFINITIONS**
- 4-202 DISPOSAL**
- 4-203 CONTRACTS FOR SERVICE; COLLECTION BY PRIVATE PERSONS; LICENSES**
- 4-204 DISPOSAL RATES**
- 4-205 MANDATORY SERVICE; BILLING**
- 4-206 SOLID WASTE DISPOSAL; SERVICE CHARGES; DELINQUENCY; COLLECTION**
- 4-207 COMMERCIAL AND BUSINESS PREMISES; CONTRACT FOR SERVICE**
- 4-208 HAZARDOUS WASTE OR WASTE REQUIRING SPECIAL HANDLING**
- 4-209 ADDITIONAL REGULATIONS**
- 4-210 VEHICLES CONVEYING SOLID WASTE**
- 4-211 NUISANCE ABATEMENT**
- 4-212 GARBAGE RECEPTACLES**
- 4-213 GARBAGE RECEPTACLES; DUTY TO KEEP CLEAN**
- 4-214 GARBAGE RECEPTACLES; STORAGE**
- 4-215 GARBAGE RECEPTACLES; REPAIR OR REPLACEMENT**
- 4-216 LICENSED HAULERS; FEE**
- 4-217 LICENSED HAULERS; REGISTERED AGENT**
- 4-218 LICENSED HAULERS; APPLICATION FOR LICENSE; RENEWAL**
- 4-219 LICENSED HAULERS; VEHICLE SPECIFICATIONS**
- 4-220 LICENSED HAULERS; OFFICE AND TELEPHONE REQUIRED**
- 4-221 LICENSED HAULERS; COMPLAINTS**
- 4-222 LICENSED HAULERS; INSURANCE**
- 4-223 LICENSED HAULERS; PERFORMANCE BOND**
- 4-224 LICENSED HAULERS; LICENSE REVOCATION**
- 4-225 LICENSED HAULERS; USE OF LICENSE NAME BY ANOTHER**
- 4-226 LICENSED HAULERS; COLLECTION TIME**
- 4-227 LICENSED HAULERS; LEVELS OF SERVICE OFFERED**
- 4-228 DISPOSAL BY UNLICENSED PERSONS; PROCESS FOR PROVING COMPLIANCE WITH SECTION 4-205**
- 4-229 OPEN BURN SITE; LIMITED TO UNTREATED WOOD AND TREES**

ARTICLE 3 – NUISANCES

- 4-301 GENERALLY DEFINED**
- 4-302 SPECIFICALLY DEFINED**
- 4-303 DUTY**
- 4-304 JURISDICTION**
- 4-305 NON-EXCLUSIVE PROCEDURE**
- 4-306 DECLARATION BY MAYOR**
- 4-307 FORM OF PROPER SERVICE OF NOTICE**
- 4-308 AFFECT OF FAILURE TO ABATE**
- 4-309 HEARING**
- 4-310 EXTENSION OF TIME**
- 4-311 ABATEMENT BY CITY**
- 4-312 RECORD OF EXPENSES**
- 4-313 HEARING ON STATEMENT OF EXPENSES**
- 4-314 EXPENSES; SPECIAL ASSESSMENT AGAINST THE PROPERTY**
- 4-315 NOTICE OF SPECIAL ASSESSMENT**
- 4-316 ALTERNATIVES**
- 4-317 PROCEDURE IN CASE OF EMERGENCY**
- 4-318 SEVERABILITY**
- 4-319 ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL**

ARTICLE 4 – PENAL PROVISIONS

- 4-401 VIOLATION; PENALTY**
- 4-402 ABATEMENT OF NUISANCE**

CHAPTER 4 – HEALTH AND SANITATION

Article 1 – General Provisions

§4-101 HEALTH; REGULATIONS

For the purpose of promoting the health and safety of the residents of the City, the Board of Health shall from time to time adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose. (Neb. Rev. Stat. §17-121)

§4-102 HEALTH; ENFORCEMENT OFFICIAL

The City Police Chief, as the Quarantine Officer, shall be the chief health officer of the City. It shall be his duty to notify the City Council and the Board of Health of health nuisances within the City and its zoning jurisdiction. (Neb. Rev. Stat. §17-121)

Article 2 – Solid Waste Disposal

§4-201 DEFINITIONS

The following definitions shall be applied throughout this article. Where no definition is specified, the normal dictionary usage of the word shall apply.

“Commercial” shall mean to be engaged in commerce within the city solid waste jurisdiction area and shall include but not be limited to all apartments and apartment buildings.

“Garbage” shall 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, fruit, or vegetable.

“Hazardous waste” shall 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 of general definition is a solid waste that, because of quantity, concentration, or physical, chemical or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“City solid waste jurisdiction area” shall mean all of the incorporated areas of the City.

“Person” shall mean a business, individual, proprietorship, firm, partnership, limited liability company, joint venture, syndicate, business trust, company, corporation, association, committee, or other organization or group of persons acting jointly.

“Refuse” shall mean non-putrescible solid wastes, except body wastes, and include garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, industrial wastes, and other such wastes.

“Rubbish” 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.

“Solid waste” 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.

“Yard waste” shall mean grass and leaves.

(Neb. Rev. Stat. §13-2012, 13-2014, 13-2016.01, 13-2020, 13-2023, 13-2026, 81-1502) (Am. by Ord. 1024, 5/16/06)

§4-202 DISPOSAL

The City may, according to state statute, provide or contract for the disposal of nonhazardous solid waste from residential, commercial, institutional, and governmental premises within its solid waste jurisdiction area. Such wastes shall be disposed of on a regularly scheduled basis and shall be disposed of only in a licensed landfill facility approved by the City Council and which meets all state and federal criteria. The Council shall approve and is authorized to contract with any such licensed landfill facility for these purposes. (Neb. Rev. Stat. §13-2020) (Am. by Ord. Nos. 1024, 5/16/06; 1031, 10/3/06)

§4-203 CONTRACTS FOR SERVICE; COLLECTION BY PRIVATE PERSONS; LICENSES

(1) The City may contract with independent contractors to provide for the collection and disposal of nonhazardous solid waste after due process and according to proper bidding and letting procedures according to state statutes. Any such contractor shall enter into a written agreement with the City, which agreement shall provide for the rates to be charged and such other terms and conditions as may be required by the City Council.

(2) In the event the Council deems it neither expedient nor advisable to enter into a contract for the collection of garbage, rubbish, trash or waste throughout the City as herein provided, any person may, upon written application to the City Clerk and satisfaction of all applicable requirements of the City and State, be issued a written license to engage in said work. Such applicant must satisfy the City Council that it can and will comply with all applicable provisions of the municipal code before the license may be authorized. A fee will be charged for the issuance of the license at the discretion of the Council. Said license shall entitle the recipient thereof to haul and collect garbage, rubbish, trash and waste from householders or tenants in the City until April 30th after the date of issuance. Such license may be renewed annually if the City Council shall not, in the meantime, have elected to enter into a contract with a licensed collector according to state statutes. The application for said licenses shall be on standard forms prepared by the City and shall elicit such information on the subject as the Council shall deem to be in the public interest. It shall be unlawful for any person to haul or collect for hire any garbage, rubbish, trash or waste for others without first procuring a license from the City.

(Neb. Rev. Stat. §13-2020) (Am. by Ord. Nos. 1024, 5/16/06; 1031, 10/3/06)

§4-204 DISPOSAL RATES

The City Council may establish rates for the disposal of solid waste generated within its solid waste jurisdiction area at a licensed landfill. If the Council exercises such power, the rates shall be set by ordinance and available for public inspection in the office of the City Clerk during office hours. (Neb. Rev. Stat. §13-2027) (Am. by Ord. No. 1024, 5/16/06)

§4-205 MANDATORY SERVICE; BILLING

Every residential, commercial, institutional and governmental building or premises in the city

solid waste jurisdiction area shall be served at least once a week by the solid waste collection and disposal service offered by the City or a licensed hauler and shall be subject to the assessment and payment of charges for such services and collection action for any service fees not paid. The City may also agree to provide such service to persons who do not live within the solid waste jurisdiction area but who are served by city utilities or who are within such close distance to the solid waste jurisdiction area as to make such service economical and practical for the City and its contracted or licensed hauler or haulers. (Neb. Rev. Stat. §13-2027) (Am. by Ord. Nos. 1024, 5/16/06; 1031, 10/3/06)

§4-206 SOLID WASTE DISPOSAL; SERVICE CHARGES; DELINQUENCY; COLLECTION

If any charges for solid waste disposal service established by the City Council are not paid when due, such sum (1) may be recovered by the City in a civil action following notice by regular United States mail to the last known address of the property owner of record and an opportunity for a hearing and (2) may be certified by the Council to the County Treasurer and assessed against the premises served and collected or returned in the same manner as other taxes are certified, assessed, collected and returned. (Neb. Rev. Stat. §13-2020)

§4-207 COMMERCIAL AND BUSINESS PREMISES; CONTRACT FOR SERVICE

Each commercial premises in which day-to-day activities are conducted within the solid waste jurisdiction area shall contract separately for solid waste disposal service with the hauler chosen by the City or a licensed hauler thereof. (Neb. Rev. Stat. §13-2020, 13-2023, 13-2026) (Am. by Ord No. 1024, 5/16/06)

§4-208 HAZARDOUS WASTE OR WASTE REQUIRING SPECIAL HANDLING

Any person, firm or corporation within the city solid waste jurisdiction area 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 state and federal laws and regulations pertaining to the specific type of waste generated. (Neb. Rev. Stat. §13-2020, 13-2023, 13-2026)

§4-209 ADDITIONAL REGULATIONS

The City Council may from time to time make and adopt by ordinance such additional rules and regulations governing the use, operation and control of the solid waste collection and disposal system and the regulation of solid waste within the city solid waste jurisdiction area as it may deem necessary to promote the efficient operation and management of the system and to protect the environment and the health, safety and welfare of all persons within the solid waste jurisdiction area. (Neb. Rev. Stat. §13-2020, 13-2023, 13-2026)

§4-210 VEHICLES CONVEYING SOLID WASTE

No person shall carry, cart, haul or convey any rubbish, waste, garbage or other refuse matter through the streets, alleys or public places of the City except in a vehicle so made and loaded

that none of its contents shall be spilled or strewn over, on or along such street, alley or public place. No person shall carry, cart, haul or convey any garbage in any truck or other conveyance unless the same is enclosed, watertight, cleaned and disinfected with sufficient frequency so as not to cause offense to the eye or nose; provided, the City Council may at any time by resolution provide that all garbage conveyances shall be constructed or provided with metal bodies or beds. (Ord. No. 1024, 5/16/06)

§4-211 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 premises or any other place within the City solid waste jurisdiction area decayed vegetable or animal substance, garbage, or refuse matter of any kind that may be injurious to the public health or offensive to the residents of the City unless the same is kept in approved receptacles as nearly airtight as may be practical. It shall be unlawful and declared to be a nuisance to throw or sweep into the streets, alleys, parks, or other public grounds any dirt, paper, nails, pieces of glass, garbage, refuse, or rubbish of any kind. No person shall permit garbage, refuse, or rubbish to collect and all persons shall remove the same within 24 hours after being notified to do so by the City. (Neb. Rev. Stat. §13-2020, 13-2023, 13-2026, 18-1720) (Am. by Ord. No. 1024, 5/16/06)

§4-212 GARBAGE RECEPTACLES

It shall be the duty of every owner or occupant of any premises where meals are served or where garbage or refuse is created or accumulated to provide and keep on the premises suitable and sufficient watertight, rodent-proof and insect-proof metal or plastic receptacles equipped with tight-fitting lids and handles or bails for easy handling. Such receptacles shall not be larger than 55 gallons; provided, in multi-family residential areas detachable containers may be used upon approval of the City's Health Enforcement Official. Barrels or drums shall not be permitted as garbage receptacles. (Ord. No. 1024, 5/16/06)

§4-213 GARBAGE RECEPTACLES; DUTY TO KEEP CLEAN

It shall be the duty of every person to keep his or her garbage receptacles or waste cans reasonably clean and free from offensive odors. (Ord. No. 1024, 5/16/06)

§4-214 GARBAGE RECEPTACLES; STORAGE

Every receptacle and can used for the collection of garbage and refuse shall be kept at a convenient place upon the private premises to facilitate the collection thereof; provided, where a residential premises does not abut an alley, all baskets, boxes, plastic sacks, bundles or other containers of leaves or grass shall be placed by the owner or occupant of any such residential premises at the curb adjacent to the premises prior to the time of collection to facilitate the collection thereof. In no event shall receptacles, cans or storage racks be located or permitted in alleys, easements or other city right-of-way. (Ord. No. 1024, 5/16/06)

§4-215 GARBAGE RECEPTACLES; REPAIR OR REPLACEMENT

If garbage cans or receptacles are in a state of disrepair or do not meet the requirements of this article, the City's Health Enforcement Official shall leave notice with the owner thereof directing such repair or replacement as may be necessary. (Ord. No. 1024, 5/16/06)

§4-216 LICENSED HAULERS; FEE

It shall be unlawful for any person to collect and transport garbage or refuse for hire without first obtaining a license therefor from the City.

(1) The license year shall run from May 1 to April 30 of the following calendar year.

(2) The City Council shall set the fee for a license by resolution and no part of such fee shall be refundable.

(3) The provisions of this section shall not apply to lawn care, tree trimming businesses or construction debris roll-off container operators that place roll-off containers on a temporary basis at an active construction site.

(4) No license issued hereunder shall be transferable.

(5) Certain provisions will be attached to the license including but not limited to the licensed hauler providing to the City a list of current addresses served by the hauler that are in the City's jurisdiction. Such list will be provided to the City every month by the 15th of that month.

(Ord. No. 1024, 5/16/06) (Am. by Ord. No. 1031, 10/3/06)

§4-217 LICENSED HAULERS; REGISTERED AGENT

All garbage hauler licensees must appoint a Nebraska resident as an agent who is authorized to receive service of process for the licensee. Said authorization shall be in writing, acknowledged before a notary, and shall contain a provision that said authorization may not be revoked without the prior written consent of the City. (Ord. No. 1024, 5/16/06)

§4-218 LICENSED HAULERS; APPLICATION FOR LICENSE; RENEWAL

(1) Any person applying for a garbage hauler's license shall file the following with the City Clerk:

(a) A completed application form;

(b) A list of all vehicles and auxiliary equipment to be used by the applicant in collecting and transporting garbage or refuse. All motor vehicles shall be identified in the manner required by Section 4-219;

(c) A certificate of insurance as required by Section 4-222;

(d) A performance bond as required by Section 4-223;

(e) The fee for the license for which application is made as established by the City Council;

(f) A copy of the document appointing an agent pursuant to Section 4-217, if the residency requirement of said section is being met under that subsection;

(g) All documentation from any federal, state or other regulatory authority demonstrating compliance with that authority's regulations, if applicable.

(2) After receiving the application, the City Clerk will put the application on the next available agenda for approval by the City Council.

(3) The procedure for license renewal shall be the same as for a new license, with the additional requirement that the licensee must file his, her, or its application for renewal at least ten days but not more than 30 days prior to the expiration date of the license.
(Ord. No. 1024, 5/16/06) (Am. by Ord. No. 1031, 10/3/06)

§4-219 LICENSED HAULERS; VEHICLE SPECIFICATIONS

(1) Any vehicle used by a hauler licensee to collect and transport garbage, refuse and waste shall be equipped with a cover of such a material sufficient to prevent any refuse and waste materials from being blown away or jarred off such vehicle and shall meet the guidelines of the Department of Environmental Quality and/or Nebraska Health and Human Services, if applicable.

(2) Every garbage and refuse vehicle used by a licensee shall display a commercially prepared sign showing the name of the licensee in letters not smaller than four inches high.

(3) All applicants and licensees shall provide the City Clerk with a list of all vehicles to be used in collecting and transporting garbage and/or refuse. For each vehicle, the list shall state the following. Said list shall be updated whenever any vehicle is added or deleted from usage.

- (a) The vehicle's make and model;
- (b) The vehicle ID number (VIN);
- (c) The year produced;
- (d) The license plate number; and
- (e) The gross vehicle weight (GVW).

(4) All vehicles and equipment used by a licensee shall be maintained in as clean and sanitary a condition as possible while in use. (Ord. No. 1021, 5/16/06)

§4-220 LICENSED HAULERS; OFFICE AND TELEPHONE REQUIRED

All garbage hauler licensees shall maintain one or more offices within the zoning jurisdiction of the City of Ashland at all times during the license year which are available for contact by the public from 8:00 a.m. to 5:00 p.m. from Monday through Friday and from 8:00 a.m. to 12:00 noon on Saturday. A licensee may use an automatic telephone answering machine or similar device, a toll-free phone number, or a local Ashland phone number in lieu of this requirement. (Ord. No. 1024, 5/16/06)

§4-221 LICENSED HAULERS; COMPLAINTS

All garbage hauler licensees shall:

(1) Maintain a local telephone number for the receipt and processing of complaints, which will enable customers to make contact with the licensee during the business hours established by Section 4-220.

(2) Make an investigation as to the validity of all complaints received and take corrective action on all valid complaints within 24 hours of receiving said complaints.

(3) Maintain a record of complaints received, setting forth the following information:

- (a) The name and address of the complainant;
- (b) The date and time the complaint was received;
- (c) The action taken in response to the complaint; and
- (d) The date and time action was taken.

(4) Make the records required by subparagraph (3) above available for inspection by the City during the business hours established by Section 4-220 or produce said records for inspection by the City Council upon request.

(5) Publish a notice in the local weekly newspaper at least once every six months to inform the licensee's customers of the phone number or numbers which may be called if they have any complaints or questions regarding their garbage service. Said notice may be contained within and be a part of the licensee's normal advertisements.

(6) Either the licensee or a designated agent may meet the requirements of this section. (Ord. No. 1024, 5/16/06)

§4-222 LICENSED HAULERS; INSURANCE

(1) Every licensee shall maintain in full force and effect insurance policies written by a company or companies authorized to do business in Nebraska in the following amounts:

(a) Workers' compensation insurance in compliance with the laws of Nebraska and employer's liability insurance with limits of not less than \$500,000.00; except that a sole pro-

prietor applying for a hauler license having no employees shall be exempt from providing proof of workers' compensation insurance.

(b) Comprehensive general liability insurance covering the operations of the licensee, with limits of not less than \$1,000,000.00 per occurrence for bodily injury and property damage.

(2) The licensee shall furnish the City Clerk a certificate or certificates of insurance for the above insurance coverage, which shall contain a statement that said policies contain a provision that said policies may not be canceled without written notice of such cancellation having been served on the City at least 30 days prior to the date of cancellation.

(Ord. No. 1024, 5/16/06)

§4-223 LICENSED HAULERS; PERFORMANCE BOND

(1) Each garbage hauler licensee shall maintain in full force and effect a performance bond with a corporate surety licensed to do business in Nebraska and in favor of the City and all customers of the licensee, guaranteeing:

(a) That all services purchased by the licensee's customers shall be furnished in a manner in full compliance with the provisions of Sections 4-216 through 4-228 inclusive, or the money paid therefor be refunded in total to said customer or customers;

(b) That all the licensee's duties under all contracts with residential customers shall be performed.

(2) The bond required hereby shall be in the amount of \$25,000.00.

(Ord. No. 1024, 5/16/06) (Am. by Ord. No. 1031, 10/3/06)

§4-224 LICENSED HAULERS; LICENSE REVOCATION

(1) The City Council may, after notice and hearing, suspend or permanently revoke a garbage hauler's license for one or more of the following reasons:

(a) Failure to maintain service of process requirements of Section 4-217.

(b) Failure to maintain all insurance required by Section 4-222.

(c) Misuse of a license in violation of Section 4-226.

(d) Violation of one or more provisions of this article relating to the collection and transportation of garbage and/or trash.

(e) Presentation of sufficient and credible evidence to the City Council demonstrating that the licensed garbage hauler has failed to properly service its customers and that such failure is significant enough to cause the City concern for the community's public health, safety and welfare.

(2) If the City Council determines that, based upon the evidence presented, a suspension is warranted, it shall order the hauler's license be suspended for a period of not less than 30 nor more than 180 days. Said suspension shall begin on the first day of the month following the date the order of suspension is entered. The licensee shall, before his, her, or its license may be renewed, refund to all customers all fees collected in advance for service to be rendered during the period of suspension; provided, said licensee may, at his, her, or its option, pay a fine in lieu of suspension for each day of suspension. Such fine shall be set by the City Council and shall be available for public inspection at the office of the City Clerk during office hours. Said option must be made and the fines must be paid prior to the first day of suspension under the City Council's order.

(3) If the City Council determines that, based upon the evidence presented, revocation is warranted, it shall order the hauler's license to be revoked immediately. The order of revocation shall require the licensee to refund to his, her, or its customers all fees collected in advance for services that were to be rendered after the date of revocation and require the payment of all fees due the City.

(4) Any licensee whose license has been revoked may not reapply for a license for a period of five years.

(a) This prohibition shall apply to individuals, partners, corporate officers and agents, and all managerial personnel involved in the violations for which revocation was ordered.

(b) Nothing herein shall prohibit a licensee from employing a person who is subject to the order of revocation.

(Ord. No. 1024, 5/16/06) (Am. by Ord. No. 1031, 10/3/06)

§4-225 LICENSED HAULERS; USE OF LICENSEE NAME BY ANOTHER

No licensee shall permit another by lease, rental, or other agreement to engage in such business under the name of the licensee or to use the licensee's equipment in such business; provided, this shall not prohibit a licensee from lending equipment to another licensee on a temporary basis so long as such equipment has been approved for use by the City. (Ord. No. 1024, 5/16/06)

§4-226 LICENSED HAULERS; COLLECTION TIME

It shall be unlawful for any licensee or employee thereof to begin collecting garbage or trash from any property within the city solid waste jurisdiction area before 5:00 a.m. (Ord. No. 1024, 5/16/06)

§4-227 LICENSED HAULERS; LEVELS OF SERVICE OFFERED

(1) Every licensed garbage hauler shall offer regular collection service to all customers within the city solid waste jurisdiction area.

(2) Upon customer request, every licensed garbage hauler shall provide minimum service collection.

(3) The rate for minimum service collection shall be the minimum rate necessary to offset the cost of the minimal service and will not be used to offset the cost of services provided to other customers.

(4) Haulers shall provide a way for customers to occasionally dispose of additional refuse at additional cost. The hauler will charge an additional amount for this service, based on the additional cost to pick up, transport, process, and dispose of the additional refuse.

(5) Nothing in this article shall prohibit haulers from offering additional levels of service or suspending services for non-payment.
(Ord. No. 1024, 5/16/06) (Am. by Ord. No. 1031, 10/3/06)

§4-228 DISPOSAL BY UNLICENSED PERSONS; PROCESS FOR PROVING COMPLIANCE WITH SECTION 4-205

(1) The provisions of Sections 4-205 through 4-226 shall not be interpreted as preventing persons from collecting and transporting their own garbage, refuse, construction and demolition waste, and waste materials approved for disposal from their own property to a licensed permitted facility, so long as such garbage, refuse, construction and demolition waste, and trash is secured as set forth in subsection (2) below and Section 4-210.

(2) The garbage, trash, refuse, construction and demolition waste, and waste materials collected and hauled pursuant to this section must be completely covered or otherwise contained or securely fastened so as to prevent any such materials which are liquid in nature from seeping or leaking from the vehicle and any solid waste materials from being blown or jarred from the vehicle onto the streets or adjoining property.

(3) The solid waste generator desiring to be exempt from the rates and charges of the City or a licensed provider shall first provide to the City a written statement described herein and be governed as follows:

(a) The statement shall set forth the full legal name of the solid waste generator and/or person liable for the solid waste account if such solid waste were collected by the City or a licensed hauler;

(b) The statement shall be signed by the solid waste generator;

(c) The statement shall set forth the date when the solid waste generator will cease using the services of the City or the licensed hauler and will commence transporting and disposing of all of the generator's solid waste to a permitted landfill or permitted facility;

(d) The statement shall acknowledge that the solid waste generator is utilizing an alternate licensed landfill/facility and is therefore not permitted, licensed or authorized to use

or receive services of the City or a licensed hauler for collection, handling or disposal of solid waste generated by such person;

(e) The statement shall provide that the solid waste generator acknowledges that any violation of rules and regulations of the City, including the unauthorized use of city facilities during such period that the statement is in effect, will subject the solid waste generator to liability for the noncompliance fee as hereinafter set forth;

(f) The statement shall further provide that the solid waste generator acknowledges the responsibility to provide the City with the receipts as required from time to time proving the safe and sanitary transportation and disposal of the solid waste generator's solid waste at a permitted facility.

(g) The foregoing written statement may be executed and provided to the City at any time and shall be effective with regard to exemption for rates and charges commencing the next billing period of the City or a licensed hauler. The statement, once filed with the City, shall be deemed to be an election by the solid waste generator to opt out of the City's collection and disposal services and the generator shall be deemed to remain as a person opting out of the City's services for collection and disposal until such time as written notice is given that the generator desires to become a customer of the City or the said generator fails to provide the receipts as hereinafter provided.

(h) A receipt from a permitted facility shall mean a *written* receipt from the permitted facility. The receipt shall set forth the solid waste generator's name, address, date of disposal, quantity of disposal, type of waste disposed, and the name and an address of the permitted facility and shall bear the original signature of the authorized agent of the permitted facility. The solid waste generator shall submit at least one receipt monthly from the alternate permitted facility. The City reserves at all times the right to reject any receipt or written statement if the same is not prepared and filed with the City in accordance with these rules and regulations.

(i) "Permitted facility" shall mean a facility approved by the Nebraska Department of Environmental Quality and/or the Nebraska Health and Human Services.

(j) "Licensed hauler" shall mean a commercial garbage hauler specifically authorized by contract or written license by the City to dispose of garbage and refuse generated within the city limits.

(Ord. No. 1024, 5/16/06)

§4-229 OPEN BURN SITE; LIMITED TO UNTREATED WOOD AND TREES

Any person who shall use the City's community land disposal site for the burning or disposal of any material or materials other than untreated wood and trees shall be deemed to be guilty of a violation. The penalty for each such violation shall be the same as set forth in Section 5-601. (Ord. No. 887, 7/27/00) (Am. by Ord. No. 1024, 5/16/06)

Article 3 – Nuisances

§4-301 GENERALLY DEFINED

A nuisance consists in doing any unlawful act, omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health, or safety of others,
- (2) Offends decency,
- (3) Is offensive to the senses,
- (4) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the City,
- (5) In any way renders other persons insecure in life or the use of property, or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(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:

- (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, houseyards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises.
- (4) Animal manure in any quantity which is not securely protected from flies and the elements or which is kept or handled in violation of any ordinance of the City.
- (5) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the Health Officer of the City nor the dumping of non-putrefying waste in a place and manner approved by the Health Officer.
- (6) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire, metal articles,

broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.

(7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity thereof.

(8) Any unsightly building, billboard, or other structure; 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 junkyards or dumping grounds or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind; for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind or of any of the parts thereof; 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 City or are maintained and kept in such a manner as to be injurious to the public health.

(12) All other things specifically designated as nuisances elsewhere in this code.
(Neb. Rev. Stat. §18-1720)

§4-303 DUTY

It shall be the duty of every owner, occupant, lessee or mortgagee of real estate in the City to keep such real estate free of public nuisances. All or any part of said premises found, as provided herein, to constitute a public nuisance shall be abated by rehabilitation, demolition or repair pursuant to procedures set forth herein. (Neb. Rev. Stat. §17-123, 17-123.01)

§4-304 JURISDICTION

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

§4-305 NON-EXCLUSIVE PROCEDURE

The procedure set forth in this article for abatement of a nuisance is non-exclusive and is in addition to the procedure for abatement which is set forth in Section 4-401 and/or 4-402. (Neb. Rev. Stat. §17-123, 17-123.01, 18-1720)

§4-306 DECLARATION BY MAYOR

When the Mayor declares or finds that any premises within the City may be maintained contrary to one or more of the provisions of Sections 4-301 and/or 4-302, he shall mail a notice to the owner, occupant, lessee, and/or mortgagee of the premises. The notice shall state the conditions which constitute the public nuisance and shall order the abatement of the nuisance within five days after the date of notice and shall be substantially in the following form:

NOTICE OF NUISANCE

TO: (Owner, Occupant, Lessee, Mortgagee)
(Address)

Pursuant to Section 4-306 of the municipal code of the City of Ashland, Nebraska, I, the Mayor of the City of Ashland declare that the following premises in the City known as (street address) and more particularly described as follows: (Legal description) is being maintained as a public nuisance contrary to Sections 4-301 and/or 4-302 of the municipal code of the City of Ashland. The conditions which constitute the public nuisance upon the above-described real estate are as follows: (Describe conditions). You shall have five days from the date of this notice to abate said above described nuisance.

Dated _____, 20__.

City Of Ashland, Nebraska

By _____
Its Mayor

Certificate of Service

The undersigned hereby certifies that a copy of the foregoing Notice of Nuisance was mailed by registered or certified U.S. Mail, postage prepaid, on the

____ day of _____, 20____, to the individuals or mortgagees at their respective addresses as noted above.

City of Ashland, Nebraska

By _____
Mayor

cc: City Council
(Neb. Rev. Stat. §17-123, 17-123.01, 18-1720)

§4-307 FORM OF PROPER SERVICE OF NOTICE

Service of said notice shall be by personal service from a police officer or by depositing a copy of said notice in the United States Postal Service enclosed in a sealed envelope and with postage thereon fully prepaid. Said mail shall be registered or certified and addressed to said owner, occupant, lessee, and/or mortgagee at the last known address of said party or parties as disclosed by the current tax rolls and if there is no known address, then in care of the property address. Service is complete at the time of such deposit. "Owner" as used herein shall mean any person in possession and any person having or claiming to have any legal or equitable interest in said premises. The failure of any person to receive such notice shall not affect the validity of the proceedings hereunder. (Neb. Rev. Stat. §17-123, 17-123.01, 18-1720)

§4-308 AFFECT OF FAILURE TO ABATE

If the nuisance is not abated within the period given in the notice, the City Council may determine to proceed. When, upon motion, it determines to proceed, the Council shall give a second notice in the same manner set forth in Section 4-307. The second notice shall establish a date, time and place at which all interested parties may appear before the City Council, or such other person as the Council specifies in the notice, and present evidence to determine whether the premises constitute a public nuisance and, if determined to constitute a public nuisance, to be abated. Any interested party may appeal such decision of the City Council to the appropriate court for adjudication, during which proceedings the decision of the City Council shall be stayed. The notice shall be substantially in the following form:

*NOTICE OF HEARING
TO DETERMINE EXISTENCE OF PUBLIC NUISANCE
AND TO ABATE IN WHOLE OR IN PART*

TO:

Notice is hereby given that on the ____ day of _____, 20____, the City Council of the City of Ashland passed a motion declaring its intent to ascertain whether certain premises situated in the City of Ashland, State of Nebraska, known and designated as (street address) in said City and more particularly described as follows: (Legal description) constitute a public nuisance subject to abatement. Hearing upon said motion to determine whether the above noted premises constitute a public nuisance shall be on the ____ day of _____,

20____, at _____ P.M. before the City Council in the council chamber, city hall, Ashland, Nebraska, at which time the Council shall hear all evidence from any interested party pertaining to the above noted issue. If said premises, in whole or part, are found to constitute a public nuisance as defined by Section 4-301 and/or 4-302 of the Ashland municipal code and if the same are not promptly abated, the city authorities shall abate the same and the cost of abatement shall be assessed upon such premises and such costs shall constitute a lien upon such land until paid.

Said alleged violations consist of the following: (Describe violations)

Dated _____, 20__.

City of Ashland, Nebraska

By _____
City Clerk

Certificate of Service

The undersigned hereby certifies that a copy of the foregoing notice was mailed by registered or certified U. S. Mail, postage prepaid, this ____ day of _____, 20__, to the following: (Owner, Occupant, Lessee, Mortgagee) (Address)

City of Ashland, Nebraska

By _____
City Clerk

(Neb. Rev. Stat. §17-123, 17-123.01, 18-1720)

§4-309 HEARING

At the time fixed in the notice, the City Council or other persons specified to hear the matter shall hear the testimony of all competent persons desiring to testify respecting the condition constituting the nuisance, including the estimated cost of abatement and other matters which may be pertinent. At the conclusion of the hearing, the City Council shall by resolution declare its findings. If the City Council so concludes, it may declare the condition existing to be a nuisance and direct the person owning the property upon which the nuisance exists to abate it within a reasonable time after the date of posting on the premises a notice of the adoption of the resolution and sending notice as set forth in Section 4-307. Said notice shall be substantially in the following form:

NOTICE OF ADOPTION OF RESOLUTION NO. _____

TO:

You are hereby notified that on the ____ day of _____, 20__, the City

Council of the City of Ashland, Nebraska, by Resolution No. _____, after notice and hearing as specified in said resolution, did determine that the following constitutes a public nuisance, to wit: (describe nuisance) upon the following described real estate, to wit: (Describe).

You are granted _____ days from the date of this notice to abate said nuisance. Failure to abate said nuisance shall result in said nuisance being abated by the City of Ashland and the cost of abatement shall be assessed upon said premises and constitute a lien upon said premises until paid.

Dated _____, 20____.

City of Ashland, Nebraska

By _____
City Clerk

Certificate of Service

The undersigned hereby certifies that a copy of the foregoing notice was posted on the premises aforescribed and mailed by registered or certified U.S. Mail, postage prepaid, on this _____ day of _____, 20____, to the following: (Owner, Occupant, Lessee, Mortgagee) (Address)

City of Ashland, Nebraska

By _____
City Clerk

(Neb. Rev. Stat. §17-123, 17-123.01, 18-1720)

§4-310 EXTENSION OF TIME

The City Council may grant an extension of time to abate the nuisance if, in its opinion, good cause for an extension exists. (Neb. Rev. Stat. §17-123, 17-123.01, 18-1720)

§4-311 ABATEMENT BY CITY

If the person fails to abate the nuisance within the time set forth, the City may proceed to abate the nuisance. (Neb. Rev. Stat. §17-123, 17-123.01, 18-1740)

§4-312 RECORD OF EXPENSES

The City shall keep an itemized account of the expenses involved in abating the nuisance. The City shall post conspicuously on the property and it shall also mail to the owner of the property a statement showing the expense of the abatement, together with a notice of the time and place when the statement will be submitted to the City Council for approval and confirmation and at which time the City Council may consider the objections and protests to the cost of the

work. Said notice shall be substantially in the following form:

*NOTICE OF HEARING ON EXPENSE
OF ABATEMENT OF NUISANCE*

TO:

Pursuant to Section 4-312 of the municipal code of the City of Ashland, Nebraska, you are hereby notified that the following is a statement showing the expense incurred by the City of Ashland in abating a nuisance upon the following described real estate, to wit: (Describe real estate)

Said expenses are as follows: (List expenses)

You are further notified that said statement of expenses shall be submitted to the City Council for consideration on the ____ day of _____, 20____, at _____ .M., _____, Ashland, Nebraska, at which time you may appear to object or protest the expense incurred in the abatement of said nuisance.

City of Ashland, Nebraska

By _____
City Clerk

Certificate of Service

The undersigned hereby certifies that a copy of the foregoing notice was posted on the premises aforescribed and mailed by registered or certified U. S. Mail, postage prepaid, this ____ day of _____, 20____, to the following: (Owner, Occupant, Lessee, Mortgagee) (Address)

City of Ashland, Nebraska

By _____
City Clerk

(Neb. Rev. Stat. §17-123, 17-123.01, 18-1720)

§4-313 HEARING ON STATEMENT OF EXPENSES

At the time fixed for hearing on the statement of expenses, the City Council shall consider the statement and any protest or objections raised by the persons liable to be assessed for the costs of the abatement. The City Council may revise, correct, or modify the statement as it considers just and thereafter shall confirm the statement by motion or resolution. The decision of the Council on all protests and objections which may be made shall be final and conclusive. The procedure governing the hearing shall be provided by Section 4-309. (Neb. Rev. Stat. §17-123, 17-123.01, 18-1720)

§4-314 EXPENSES; SPECIAL ASSESSMENT AGAINST THE PROPERTY

If the property owner does not pay the expense of abating the nuisance within five days after the City Council confirms the cost of abatement, the costs shall become a special assessment against the real estate upon which the nuisance was abated. The assessment shall continue until it is paid, together with interest as set by the applicable state statutes. (Neb. Rev. Stat. §17-123.01)

§4-315 NOTICE OF SPECIAL ASSESSMENT

The City shall file in the offices of the County Register of Deeds and County Treasurer a certificate substantially in the following form:

NOTICE OF SPECIAL ASSESSMENT

Under the authority of the City of Ashland municipal code, the City did on _____, 20___, abate a nuisance upon the real estate hereinafter described and then on _____, 20___, did assess the cost of the abatement upon the real estate. The City claims a special assessment on the real estate for the expense of doing the work in the amount of \$_____. This amount is a special assessment against the real estate until it is paid, with interest, as set by the applicable state statutes, until discharged of record. The real estate referred to above and upon which the special assessment is claimed is that certain parcel of land situated within the City of Ashland, County of Saunders, State of Nebraska, and more particularly described as follows: (Legal description)

Dated _____, 20___.

City of Ashland, Nebraska

By _____
City Clerk

(Neb. Rev. Stat. §17-123, 17-123.01, 18-1720)

§4-316 ALTERNATIVES

Nothing in the foregoing sections shall be deemed to prevent the City Council from ordering the City Attorney to commence a civil and/or criminal proceeding to abate a public nuisance under applicable civil or penal code provisions as an alternative to the proceedings set forth herein. (Neb. Rev. Stat. §17-123, 17-123.01, 18-1720)

§4-317 PROCEDURE IN CASE OF EMERGENCY

When the conditions constituting the nuisance pose an immediate threat to the public peace, health or safety, the City Council may order the nuisance abated immediately or take steps itself to abate the nuisance after adoption of a resolution declaring the facts which constitute the emergency. To be effective, the resolution shall be adopted by a three-fourths vote of the

City Council. (Neb. Rev. Stat. §17-121, 17-123, 17-123.01, 18-1720)

§4-318 SEVERABILITY

The City Council hereby declares that should any section, paragraph, sentence or word of this article hereby adopted be declared for any reason to be invalid, it is the intent of the Council that it would have passed all other portions of this article independently of the elimination herefrom of any such portion as may be declared invalid.

§4-319 ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

In cases of appeal from an action of the City Council condemning real property as a nuisance or as dangerous under the police powers of the City, the owners of the adjoining property may intervene in the action at any time before trial. (Neb. Rev. Stat. §19-710)

Article 4 – Penal Provisions

§4-401 VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. by Ord. No. 870, 5/3/00)

§4-402 ABATEMENT OF NUISANCE

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

(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 a part of the judgment in the case.

(Neb. Rev. Stat. §18-1720, 18-1722)