

ORDINANCE NO. 905

AN ORDINANCE OF THE CITY OF HARTINGTON, NEBRASKA, AMENDING SECTIONS 7-201 THROUGH 7-207 OF THE CODE OF ORDINANCES RELATING TO NUISANCES, THE ABATEMENT PROCEDURE, AND ABANDONED, UNLICENSED OR INOPERABLE VEHICLES; AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES THAT CONFLICT HEREWITH; AND PROVIDING A TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HARTINGTON, NEBRASKA THAT SECTIONS 7-201 THROUGH 7-207 OF THE CODE OF ORDINANCES BE AMENDED, as follows:

§ 7-201 NUISANCES DEFINED.

(A) General definition. For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

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.

(B) Specific definition. The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be NUISANCES:

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

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

(4) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the 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, that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the City, nor the dumping of non-putrefying waste in a place and manner approved by the health officer;

(6) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;

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

(8) Any unsightly building, billboard, or other structure, or any old, abandoned, or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof;

(9) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked, unlicensed 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 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 fowl of any kind are confined or on which is stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or

the premises on which the 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; or

(12) All other things specifically designated as nuisances elsewhere in this code.

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

§ 7-202 ABATEMENT PROCEDURE.

(A) It shall be the duty of every owner or occupant of real estate in the City to keep that real estate free of public nuisances.

(B) Upon determination by the Board of Health, the health officer of the city, the code enforcement officer of the City, the City superintendent, or any other authorized person by the City that the owner or occupant has failed to keep the real estate free of public nuisance, as defined herein, the following abatement procedure shall be followed:

- (1) The city superintendent or code enforcement officer shall document the nuisance by photographing the same. Once the nuisance has been documented, the City shall give notice to abate the nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if any, by personal service or certified mail with return receipt requested. If mailed, such notice shall be conspicuously marked as to its importance. Personal service shall be made by the City's Police Department or County Sheriff's Office. Such notice shall contain a copy of the photograph of the nuisance, a copy of this ordinance, instructions on abatement of the nuisance, time in which such abatement shall take place, and possible penalties for failure to abate. However, if notice cannot be given via personal service or certified mail with reasonable diligence, the City shall give notice to abate and remove such nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if any, (a) by leaving and posting the notice on the premises so that the owner or owner's duly authorized agent and/or the occupant of the premises may reasonably see it; (b) by publication for one (1) week in some newspaper printed in Cedar County, Nebraska where the subject premises are located; or (c) by any manner reasonably calculated under the circumstances to provide the owner or owner's duly authorized agent and/or the occupant of the premises with actual notice and an opportunity to be heard.
- (2) Within five (5) business days after receipt of such notice, the owner, agent, 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

fourteen (14) days after the filing of the appeal and shall be conducted by the Mayor as hearing officer. The Mayor shall render a decision on the appeal within five (5) business days after the conclusion of the hearing. The hearing shall be conducted informally, and the formal rules of evidence shall not apply but either party may appear with an attorney and may request that the hearing be recorded for appeal purposes. Any decision rendered by the Mayor may be appealed to the District Court. If no appeal is taken within ten (10) days of the Mayor's decision, the owner, agent, or occupant shall promptly comply with the notice to abate. If abatement is not completed within fourteen (14) days of the Mayor's decision and no appeal is taken, the City's Police Department or the City's Superintendent shall proceed pursuant to division (3) and (4) below or to divisions (C)(1) and (2) as set forth below.

(3) Within ten (10) 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 appeal the decision of the Mayor and fails to comply with the order to abate and remove the nuisance, the code enforcement officer shall again photograph the nuisance to document that abatement has not occurred.

(4) If abatement has not occurred within the time prescribed, the City Police Department may deliver the original photographs, a copy of the delivered notice to abate, the certificate of delivery or acknowledged return receipt of the notice, and the photographs taken subsequent to the time to abate has elapsed to the prosecuting attorney for the City and request that charges be filed against the owner or occupant of the premises for maintenance of a nuisance.

(C) In the alternative, the City may cause the nuisance to be corrected or removed. The costs and expenses of any such work shall be paid by the owner of the real estate. If unpaid for two (2) 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 benefitted in the same manner as other special taxes for improvement 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.

(D) This section does not apply to a vehicle in an enclosed building; or to a vehicle upon private property when screened from view by a solid fence, privacy fence, or wall; or to a vehicle on the premise of a business enterprise operated in a lawful place and manner where the vehicle is necessary to the operation of that business; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City. A chain link fence of any kind will not meet the requirements for an exception under this paragraph.

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

§ 7-203 JURISDICTION.

The Mayor and Police Department are directed to enforce this City code against all nuisances. The jurisdiction of the Mayor, Police Department, 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.

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

§ 7-204 ADJOINING LANDOWNERS; 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.

Statutory reference:

Intervention of adjoining landowners, Neb. RS 19-710

§ 7-205 DEAD OR DISEASED TREES.

(A) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the City.

(B) Notice to abate and remove such a nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within thirty (30) days after the receipt of this notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the City may have the work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed. (Neb. RS 17-555)

Statutory reference:

Authority, see Neb. RS 17-555

§ 7-206 ABANDONED, UNLICENSED OR INOPERABLE VEHICLES.

(A) It shall be unlawful to abandon any automobile on the City streets, highways, alleys, parks, or other property. An automobile shall be deemed to be "abandoned" if left unattended for more than six (6) hours on any public property without current license plates; or for more than twenty-four (24) hours on any public property, except where public parking is permitted. Where

public parking is permitted, a vehicle is deemed “abandoned” if left unattended for more than forty-eight (48) hours after the parking of such vehicle shall have become illegal.

- (1) Any abandoned automobile shall immediately become the property of the City if the automobile is unlicensed and, in the estimation of City Police, worth \$250 or less.
- (2) If the abandoned automobile is licensed or has an estimated value of more than \$250, the City Police shall make reasonable efforts to contact the owner and notify him/her that the vehicle has been determined to be abandoned and that, if unclaimed, either (a) it will be sold after five (5) days from the date such notice was mailed or (b) title will vest in the City thirty (30) days after the date such notice was mailed. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

(B) No owner, tenant, occupant, lessee, or other person in control of any property within the City shall allow any partially dismantled, non-operating, unlicensed, wrecked, junked, or discarded vehicle to remain on such property longer than thirty (30) days.

(C) This section does not apply to a vehicle in an enclosed building; or to a vehicle upon private property when screened from view by a solid fence, privacy fence, or wall; or to a vehicle on the premise of a business enterprise operated in a lawful place and manner where the vehicle is necessary to the operation of that business; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City. A chain link fence of any kind will not meet the requirements for an exception under this paragraph.

(D) Any vehicle allowed to remain on public or private property in violation of this section shall constitute a nuisance and shall be abated through the abatement procedure described in §7-202 of the Code of Ordinances for the City, and in addition any person violating this section shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500.00), except that each person so convicted shall be fined in a sum not less than one hundred dollars (\$100.00) for the first offense, not less than two hundred fifty dollars (\$250.00) for the second offense, and not less than five hundred (\$500.00) for the third offense and each offense thereafter. Each twenty-four-hour period in which there is a violation of any of the provisions of Sections 7-201 through 7-206, shall constitute a distinct and separate offense and shall be punishable as such.

§ 7-207 TIRES; STORAGE PROHIBITION.

(1) It shall be unlawful for any person to store or keep outside about any dwelling, lot, building or premise, tires exceeding twelve (12) in quantity, at any one time, except for purposes of temporary placement for removal, which shall not exceed twenty-four (24) hours. This prohibition shall extend to all tires stored or kept outside of a lawful building or motor vehicle within the City of Hartington.

(2) Tires may be stored in any lawfully existing building. A building or other enclosure for the purpose of storage of tires shall be allowable when a building permit is obtained from the City for such structure, and it is properly constructed.

(3) Any person who shall violate this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, be subject to a fine of not more than one hundred dollars (\$100.00) for each such offense. A new violation shall be deemed committed every twenty-four (24) hours of such failure to comply.

This Ordinance shall take effect upon its passage and approval and publication as required by law.

PASSED and APPROVED this 12th day of August, 2024.



CITY OF HARTINGTON, NEBRASKA

MARK Becker

By: Mark Becker, Mayor

ATTEST:

Brittnei Benscoter

Brittnei Benscoter, City Clerk