

## **Chapter 137, NUISANCES**

### § 137-1. Nuisance defined.

A nuisance consists in doing any unlawful act, or omitting to perform a duty or suffering or permitting any condition or thing which 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 or parkway, square, street or highway in the municipality;
- 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.

### § 137-2. Specific acts.

The following specific acts, omissions, places, conditions and things, in addition to all other prohibitions of this chapter, are hereby declared to be nuisances:

A. The maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon any private lot, building, structure or premise, or in or upon any street, avenue, alley, park or parkway, or at any other public or private place, or any one or more of the following conditions or things, to-wit:

- (1) Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats.
- (2) Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, vacant areas in rear of stores, vacant lots, houses, building or premises.
- (3) 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 of Papillion, nor the dumping of nonpurifying waste in a place and manner approved by the Health Officer.

(4) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, broken crockery, broken glass, broken plaster and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles approved by the Health Officer.

(5) 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 material 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.

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

(7) All places used or maintained as junkyards 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 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 unless specifically allowed under Chapter 205, Zoning.

§ 137-3. Abatement procedure. [Amended 3-3-1998 by Ord. No. 1261]

A. It shall be the duty of every owner, occupant, lessee or mortgagee of real estate in the municipality to keep such real estate free of public nuisances. Upon determination by the Board, comprised of the Chief of Police, Director of Public Works and City Administrator, hereinafter referred to as "Board," that said owner, occupant, lessee or mortgagee has failed to keep such real estate free of public nuisances, the Board shall thereupon cause notice to be served upon the owner, occupant, lessee, mortgagee or agent thereof, by personal service or certified mail. A copy of said notice shall be mailed to the City Councilors representing the ward where such nuisance has been declared. Such notice shall describe the condition as found by the Board and state that said condition has been declared a public nuisance and that the condition must be remedied at once. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the Board, within seven days after personal service or receipt of certified mail, whichever is later, the Board shall notify the Council of such noncompliance, and the Council shall, upon receipt of such notice, cause a hearing date to be fixed and notice thereof to be served upon the owner, occupant, lessee or mortgagee or agent of the real estate.

B. Such notice of hearing shall be by personal service or certified mail and require such party or parties to appear before the Council to show cause why such condition should not be found to be a public nuisance and remedied. A return of service shall be required by the Council. Such notice shall be given not less than five days prior to the time of hearing, provided that whenever the owner, lessee, occupant or mortgagee of such real estate is a nonresident or cannot be found in the state, then the City Clerk shall publish, in a newspaper of general circulation in the municipality, such notice of hearing for two consecutive weeks, the publication to be at least one week prior to the date set for the hearing.

C. Upon the date fixed for the hearing and pursuant to notice, the Council shall hear all objections made by parties and shall hear evidence submitted by the Board. If, after consideration of all of the evidence, the Council shall find that said condition is a public nuisance, it shall by resolution order and direct the owner, occupant, lessee or mortgagee to remedy said public nuisance at once: provided that the party or parties may appeal such decision within 14 days to the appropriate court for adjudication, during which proceedings the decision of the Council shall be stayed.

D. Should the owner or occupant refuse or neglect to comply within seven days with the order of the Council, the Board shall proceed to cause the abatement of the described public nuisance. Upon completion of the work by the municipality, a statement of the cost of such work shall be transmitted to the Council, which is authorized to bill the property owner or occupant or to levy the cost as a special assessment against the land. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.