

## CHAPTER 11: POLICE REGULATIONS

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*(a) GENERAL PROVISIONS*

**§ 11-301 DRAINAGE; NUISANCE; DUTY OF OWNER OR OCCUPANT.**

It is required that all lots or pieces of ground within the City or within two miles of the corporate limits of the City, except those area specifically designed for detention or retention, be drained as to prevent stagnant water or any other nuisance from accumulating thereon, and it shall be the duty of the owner or occupant of the lot or piece of ground to keep the lot or piece of ground drained as to prevent stagnant water or any other nuisance from accumulating thereon. (Ord. 1195, passed 3-18-1996) Penalty, see § 11-308

**§ 11-302 ACCUMULATION OF LITTER OR GARBAGE PROHIBITED; DECLARED NUISANCE.**

The throwing, depositing, or accumulation of litter or garbage on any lot or piece of ground within the City is prohibited, and it shall be a nuisance to litter or cause litter or garbage to be deposited or remain on any such lot or piece of ground. (Ord. 1195, passed 3-18-1996) Penalty, see § 11-308

**§ 11-303 LITTER OR GARBAGE; DUTY OF OWNER OR OCCUPANT.**

It shall be the duty of the owner or occupant of all lots and pieces of ground within the City to keep the lots and pieces of ground free from the accumulation of litter or garbage or cause litter or garbage to be deposited or remain thereon and to abate and remove the nuisance upon notice as is hereinafter provided. (Ord. 1195, passed 3-18-1996) Penalty, see § 11-308

**§ 11-304 WEEDS; DECLARED NUISANCE.**

It shall be a nuisance to permit or maintain any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation on any lot or piece of ground within the City. (Ord. 1195, passed 3-18-1996) Penalty, see § 11-308

**§ 11-305 WEEDS; DUTY OF OWNER OR OCCUPANT.**

It shall be the duty of the owner or occupant of all lots and pieces of ground within the City to keep the lots and pieces of ground and the adjoining streets and alleys free of any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation, and in the event the nuisance has not been removed, shall abate and remove the nuisance upon notice as is hereinafter provided. (Ord. 1195, passed 3-18-1996)

**§ 11-306 NUISANCE; REMOVAL; NOTICE; ACTION BY CITY COUNCIL; CIVIL ACTION.**

Notice to abate and remove the nuisance 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 five days after receipt of the 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 the work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after the 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 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. 1195, passed 3-18-1996)

***Statutory reference:***

*Related state law provisions, see Neb. RS 18-1752*

**§ 11-307 DEFINITIONS.**

For the purpose of §§ 11-301 through 11-306, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***GARBAGE.*** Food wastes from kitchens, shops, and stores, including peelings, vegetable tops, wastes from meat, fish, and poultry, and any leftovers as are not usable or suitable for keeping, spoiled fruits, vegetables, and meats and other perishable wastes that attend the preparation, use, cooking, or the dealing in or storage of meats, fish, fowl, fruits, or vegetables. All waste materials discharged from homes, including but not limited, bottles, cans, papers, books and magazines, pasteboard, cardboard and composition board cartons, boxes and containers, grass, weed and tree trimmings, leaves and other garden and yard refuse.

***LITTER.*** Shall include, but not be limited to:

- (a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;
- (b) Wood, plaster, cement, brick, or stone building rubble;
- (c) Tree branches, grass, leaves, and worthless vegetation;
- (d) Offal and dead animals;
- (e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration,

dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk;

(f) Mobile homes, trailers, campers, or pickup toppers, or parts thereof, boats or parts thereof which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk;

(g) Junk metal, iron, pipe, fencing, barrels, fuel oil tanks, propane tanks, tires, which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and

(h) Household furniture, bed frames and springs, mattresses, TV's and appliances, hot water and steam radiators, bathtubs, commodes, sinks, lawn mowers, carpet, linoleum and floor coverings which have lost their identity, character, utility or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.

**WEEDS.** Shall include, but not be limited to, bindweed (*convolvulus arvensis*), puncture vine (*tribulus terrestris*), leafy spurge (*euphorbia esula*), Canadian thistle (*cirsium arvense*), perennial peppergrass (*lepidium draba*), Russian knapweed (*centaurea pictis*), Johnson grass (*sorghum halepense*), nodding or musk thistle, quack grass (*agropyron repens*), perennial sow thistle (*sonchus arvensis*), horse needle (*solanum carolinense*), bull thistle (*cirsium lanceolatum*), buckthorn (*rhamnus sp.*) (*tourn*), hemp plant (*cannabis sativa*), and ragweed (*ambrosiaceae*). (Ord. 1195, passed 3-18-1996)

#### **§ 11-308 NUISANCE, VIOLATION; PENALTY.**

Any person, firm, or corporation violating the terms of this article shall be subject to the blanket penalty of the Chadron Municipal Code § 18-104. Each day that the violation is committed or permitted to continue may constitute a separate offense and may be punishable as such hereunder.

(Ord. 1195, passed 3-18-1996; Am. Ord. 1334, passed 6-21-2010)

#### **(b) ADDITIONAL PROVISIONS**

#### **§ 11-311 NUISANCE; JUNK.**

The term **JUNK** includes scrap metal, parts for machinery, appliances or vehicles, any machine or vehicle which is not in operating condition or which has lost its identity, character, utility, or serviceability, as such, through deterioration, dismantling, or the ravages of time, or which has been cast off, discarded, or thrown away or left as waste or wreckage.

(Ord. 1203, passed 10-7-1996)

## **§ 11-312 NUISANCE; PROHIBITED.**

It shall be unlawful for any person to cause, permit, maintain, or allow the creation of a nuisance. There shall be rebuttable presumption that the owner, or, if the property is occupied, the occupant of property on which a nuisance is found is responsible for the existence of the nuisance.

(Ord. 1203, passed 10-7-1996) Penalty, see § 11-308

## **§ 11-313 NUISANCE; RIGHT OF ENTRY.**

For the purpose of administering and enforcing the provisions of any section of this article, any police officer, the Zoning and Building Official, and any other City employee designated by the City Manager is authorized with the consent of the owner and/or occupant to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If the entry is refused or not obtained, the City representative is authorized to pursue recourse as provided by law.

(Ord. 1203, passed 10-7-1996; Am. Ord. 1334, passed 6-21-2010)

### ***(c) ABATEMENT PROCEDURES***

## **§ 11-321 NUISANCE; NOTICE TO REMOVE.**

If any nuisance as defined in this code shall exist anywhere subject to this article, the City may give notice to abate and remove the same as provided in § 11-306, the notice shall contain:

- (1) An order to abate the nuisance within a stated time;
- (2) A statement that the party may request a hearing before the City Council within five days after receiving the notice;
- (3) The location of the nuisance, if the same is stationary;
- (4) A description of what constitutes the nuisance;
- (5) A statement of acts necessary to abate the nuisance; and
- (6) A statement that, if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the City shall abate the nuisance and assess the cost thereof against the property.

(Ord. 1203, passed 10-7-1996)

### **§ 11-322 NUISANCE; AFTER RECEIPT OF NOTICE; REMOVAL.**

Within five days after receipt of the notice, if the owner or occupant of the land does not request a hearing with the City Council, as provided in § 11-306, or fails to comply with the order to abate and remove the nuisance, the City Manager may cause the City to remove the nuisance.

(Ord. 1203, passed 10-7-1996; Am. Ord. 1334, passed 6-21-2010)

### **§ 11-323 NUISANCE; REQUEST FOR HEARING BEFORE CITY COUNCIL.**

Within five days after receipt of the notice, the owner or occupant may make a written request for a hearing before the City Council, as provided in § 11-306, and such a request shall suspend the notice to abate and remove unless an emergency was declared, as provided in this article. At the hearing, the City Council may order the nuisance abated and removed within the time as the City Council shall determine. If the nuisance is not abated and removed within the time specified by the City Council, the City Manager may cause the City to remove the nuisance and the City shall proceed, as provided in § 11-306. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after the work is done, the City shall proceed, as provided in § 11-306. Any junk which is removed under the provisions of this section shall be impounded and shall be valued as provided elsewhere in this article. The remedy provided in this section shall be cumulative with any other remedy provided in this code, or otherwise available at law or in equity.

(Ord. 1203, passed 10-7-1996; Am. Ord. 1334, passed 6-21-2010)

### **§ 11-324 NUISANCE; EMERGENCY REMOVAL.**

If the City Manager shall determine that a particular nuisance, as defined in this code, is so unsafe, or is unsafe in a respect such that a delay in removal thereof would result in undue danger or other hazard to persons or property, he or she may declare in writing that there exists an emergency requiring that this nuisance be removed immediately and order the appropriate City employees to remove the nuisance. The costs and expenses of the removal may be assessed, as provided in this article. Any junk which is removed under the provisions of this section shall be impounded and shall be valued, as provided in this article. The remedy provided in this section shall be cumulative with any other remedy provided in this code, or otherwise available at law or in equity.

(Ord. 1203, passed 10-7-1996; Am. Ord. 1334, passed 6-21-2010)

### ***(d) SPECIAL PROVISIONS***

### **§ 11-331 JUNK; VALUE DETERMINATION.**

(1) The City Manager, after removing and impounding junk as provided elsewhere in this article, shall determine whether the fair market value of the junk exceeds the sum of \$50. For purposes of the valuation process, articles shall be valued in the following sequence:

(a) Each particular article which may have a value in excess of \$50;

(b) Each set, partial or complete, or components of a particular type of machinery, appliance, or equipment which may have a value in excess of \$50; and

(c) Each aggregate of articles that are identical or substantially similar to each other in character, which may have a value in excess of \$50.

(2) After the part of the valuation process has been completed:

(a) Those particular articles, sets, or aggregates finally determined to have a fair market value in excess of \$50 shall be deemed to constitute junk having a market value in excess of \$50; and

(b) Those finally determined not to have such a fair market value, together with any other articles or materials not valued to that point, shall be again valued and, if all of these in the aggregate shall be determined to have a fair market value in excess of \$50, then the articles and materials, collectively, shall be deemed to constitute junk having a fair market value in excess of \$50; otherwise, the articles and materials shall be deemed, collectively, not to be junk having the value.

(Ord. 1203, passed 10-7-1996)

### **§ 11-332 JUNK; VALUE NOT EXCEEDING \$50.**

If the City Manager shall certify that the fair market value of certain junk valued in accordance with this article does not exceed the sum of \$50, title to the junk shall immediately vest in the City, and the City, in the discretion of the City Manager, may retain and use, sell at private sale or public auction, or otherwise dispose of the junk. If the junk is sold, the proceeds of sale shall be retained by the City and deposited in the General Fund.

(Ord. 1203, passed 10-7-1996)

### **§ 11-333 JUNK; VALUE EXCEEDING \$50.**

All the subsequent sections of this article pertaining to junk apply to junk, and only to junk, which the City Manager shall have determined in accordance with this chapter to have a fair market value in excess of \$50.

(Ord. 1203, passed 10-7-1996)

### **§ 11-334 JUNK; INQUIRY; NOTICE.**

The City shall make inquiry concerning ownership of, and possession or any other legal interests in, the impounded junk, unless he or she already shall be duly informed in regard thereto. He or she then shall give notice, by certified mail, addressed to the person or persons who are or appear or claim to be the owner of, or to have a possessory or other interest in the junk. The notice should state if the junk is not claimed, as provided in this article, by a date to be specified in the notice, which shall be not less than 30 days after the notice was mailed, the junk may be sold by the City at public auction after that date, and a part or the whole of the proceeds may be retained by the City. (Ord. 1203, passed 10-7-1996)

### **§ 11-335 JUNK; CLAIM; INFORMATION.**

Any person claiming the junk, or a part thereof, shall file with the City, before the junk shall have been sold by the City, a written claim, on a form to be supplied by the City, wherein it is stated the alleged ownership or possessory or other interest of the claimant in the junk stated the alleged ownership or possessory or other interest of the claimant in the junk, and a demand for its release to the claimant. The City shall inform whoever claims the junk, or makes inquiry, concerning the circumstances upon which were based the removal and impoundment of the junk, and the amount of expense of removal, impoundment, and storage of the junk, the cost of postage on, and publication of, notices mailed as provided in this article, and the expense of the advertising, if any, of a proposed sale of the junk, whether or not such a claim is filed. (Ord. 1203, passed 10-7-1996)

### **§ 11-336 JUNK; DETERMINATION; EXPENSES; PAYMENT; RELEASE.**

If the City shall determine the claimant to be the owner of the junk, or to have an interest in the junk entitling him or her to the possession thereof, upon compliance with the requirements of this section, the City shall release the junk to the claimant upon payment by the claimant to the City Clerk of the expenses referred to in § 11-335, as determined by the City; otherwise, the City Manager shall deny the claim. The City Manager shall enter in writing his or her determinations in this regard, and, upon request of the claimant, shall supply to the claimant a copy thereof. (Ord. 1203, passed 10-7-1996)

### **§ 11-337 JUNK; SALE; NOTICE.**

If no claim to the junk shall have been filed with the City, as provided in this article, within 30 days after a notice was mailed in accordance with this article, or if such a claim was filed and by the City Manager denied, as provided in this article, the City may cause a notice of a public auction of the junk to be published one time in a newspaper of general circulation within the City not less than ten nor more than 20 days prior to the auction. The notice shall state the time and

place of the auction and list the junk to be sold. A copy of the published notice shall be mailed by the City to each person who is or appears or claims to be the owner of, or to have a possessory or other interest in the junk.

(Ord. 1203, passed 10-7-1996)

#### **§ 11-338 JUNK; SALE; PROCEEDS.**

If the junk has not been released to a claimant prior to the sale, as provided in this article, the City shall sell the junk or cause it to be sold at public auction at the time and place and in the manner, if any, specified in the notice. The proceeds shall be delivered to the City Clerk and shall be applied in reimbursement of the expense which was incurred by the City, as determined by the City Manager, in removing, impounding, storing, and selling the junk (including all of the expenses referred to in § 11-335), and the excess, if any, shall be held by the City Treasurer, without interest, for the benefit of the owner of the junk, or of anyone having a prior right thereof, for a period of two years. If not claimed within the period, the excess shall be paid into the General Fund of the City.

(Ord. 1203, passed 10-7-1996)

#### **§ 11-339 JUNK; LIABILITY.**

Neither the owner, lessee, or occupant of the premises from which the junk was removed, or of premises which abutted a sidewalk, street, or alley space, parking or other public place from which the junk was removed, nor the City, or any officer, employee, or contractual agent thereof shall be liable to any person for loss or damage to any junk which occurs during its removal, impoundment, storage, or disposition by the City, as provided in this article.

(Ord. 1203, passed 10-7-1996)