

SECTION 33 - NUISANCE REGULATIONS

33.1 DUTIES OF THE DIRECTOR OF PLANNING

The Director of Planning and his/her duly-authorized assistants shall be authorized and directed to enforce the provisions of these regulations and of the County's duly-adopted building code.

The Director of Planning shall be in immediate charge of the work of the staff of the Building and Inspection Department, he shall supervise the approval of all applications and plans submitted for the purpose of obtaining permits therefore, and shall direct all inspection work. He shall have full power to pass upon any questions arising upon the provisions or out of any provision of the zoning regulations of the County, and any building code which may be adopted by the County under its jurisdiction, subject to the conditions, modifications and limitations contained therein.

The Director of Planning or his/her assistants shall inspect any building upon which complaints are filed by any citizen, or representative of law enforcement, alleging a violation of the provisions of the zoning regulations or the International Building Code, or if said violation seems apparent upon casual observation from a public right-of-way or area generally open to the public. Where it appears the erection or alteration of any building, structure, or part thereof does not meet the intent of this code, he or she shall take steps to cause the building owner to modify the building to meet this code.

Upon presentation of proper credentials, the Director of Planning and/or his/her assistants may enter at reasonable times any building, structure or premises within the jurisdictional area of the County's zoning regulations and perform any duty imposed upon him or her by this chapter, or the County's building or zoning regulations.

The actions described in Chapter 1 of the International Building Code, as the same may be adopted by the County and as may be amended from time to time, are hereby authorized for all sections of these regulations and the County's zoning regulations. In the event of any conflict between the County Zoning Regulations and the duly adopted International Building Code, the County Zoning Regulations shall supersede.

33.2 DEFINITION OF NUISANCE

For the purposes of this chapter, a nuisance exists when a person fails to perform a duty or permits any condition or thing to exist, which act, omission, condition or thing either:

- (A) Injures or endangers the comfort, repose, health or safety of others; or
- (B) Causes any building or structure to be found unsafe or unfit for occupancy, use, or any building or structure which is liable to fall or collapse from inherent structural weakness, or as the result of fire, decay, or otherwise, in which the owner refuses to repair in accordance with the provisions of this chapter and the County's building code, or any structure which has deteriorated from any cause to the extent of 50% of the cost of a similar new building above the foundations; or
- (C) Is offensive to the senses; or
- (D) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, alley, highway, sidewalk, stream, ditch or drainage; or
- (E) In any way renders other persons insecure in life or the use of property; or
- (F) Essentially interferes with the quiet enjoyment of life and property, or tends to depreciate the value of the property of others; or

(G) The maintaining, using, placing, depositing, leaving or permitting to be or remain on the public or private property of any of the following items, conditions or actions is hereby declared to be and to constitute a nuisance; however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

1. Any condition which provides harborage for rats, mice, snakes and other vermin.
2. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a fire hazard in the vicinity where it is located.
3. All unnecessary or unauthorized noises and annoying vibrations, including, but not limited to, non-agricultural animal noises.
4. Disagreeable or obnoxious gases, odors and/or fumes, as well as the conditions, substances or other causes which give rise to the emission or generation of such gases, odors and/or fumes, except for agricultural uses.
5. The dressed or undressed carcasses of fish, animals, or fowl, wild game or domestic, not disposed of, processed, or removed from the general public view.
6. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
7. Any building, structure or location wherein or upon which any activity which is in violation of local, state or federal law is conducted, performed or maintained.
8. Any accumulation of stagnant water permitted or maintained on any lot or property.
9. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
10. Any method of human excretion disposal which does not conform to the provisions of this chapter, state law or city regulation, rule or regulation.
11. Leaking or defective water pipes, sewer pipes, hydrants, cisterns, wells, gutters, drains, rain spouts or seepage in or about any structure used for human occupancy or the surrounding earth.
12. Any abandoned or open wells, cisterns or cellars.
13. The discharge of any filthy or offensive water, swill, liquid or waste from any commercial establishment into or on any street, alley, sidewalk, gutter, vacant lot, stream or river.
14. The parking or storage of any vehicle or machine or parts thereof in violation of any zoning code, state statute or federal law.
15. Every other act or thing done, made, permitted, allowed or continued on any property, whether public or private, detrimental to the health or likely to injure any of the inhabitants of the County or its extraterritorial jurisdiction.

33.3 CITIZENS COMPLAINT

All complaints shall be submitted to the Director of Planning in writing. Such written complaints shall be kept on file as a matter of public record.

33.4 DANGEROUS STRUCTURES

It shall be unlawful for any person to continue the use or occupancy of any building or structure in which violations of the provisions of these regulations are found to exist to such an extent as would make the building or structure dangerous for occupancy and use until changes, alterations or repairs ordered by the Director of Planning or his/her assistants shall have been made.

Whenever the occupancy or use of a building or portion thereof becomes dangerous to life or limb by reason of imminent or actual failure or collapse, the Director of Planning or his/her assistants may order the immediate vacation of such building, or part of the building, or adjacent building found to be unsafe until such dangerous condition is corrected.

Any building or other structure, or other pertinent apparatus in, upon, or about the building or structure, found, either in whole or in part, to be structurally unsafe or dangerous in case of or as a result of fire, panic, tornado, wind, lightening, deterioration, flood or other cause, or which is insufficient in any way for the purpose for which it is intended to be used, shall be made safe and secure by the owner, agent, lessee or occupant of such building or other structure within the time set forth in the written notice from the Director of Planning.

If the owner, agent, lessee or occupant of any building or structure found to be unsafe for occupancy or use or otherwise in violation of the provisions of this code shall fail to make such changes, alterations or repairs in the time set forth in the notice of the violation, and no extension of time has been procured, the Director of Planning shall report such violations to the County Attorney's Office for proper legal action.

Where immediate action is deemed necessary to protect life or limb, the Director of Planning or his/her assistants may cause an unsafe or dangerous building or structure, appurtenance, appliance or apparatus, or any portion thereof, to be taken down or repaired. The cost of taking down or repairing the building or structure under the provisions of this section, in an amount of a certified bill of all expenses incurred by the Director of Planning or his/her assistants, shall be collected in the same manner provided for in Section 31.6.

The Director of Planning shall placard every building or structure found to be unsafe or unfit for occupancy or use under the provisions of these Regulations. Such placard shall be placed on the exterior near the building entrance and shall set forth that such building or structure is unsafe or unfit for occupancy.

33.5 CREATION OF A NUISANCE

It shall be unlawful for any person to cause, permit, maintain or allow the creation of a nuisance.

33.6 PENALTIES FOR VIOLATIONS

Any violations to provisions of these Regulations shall be a misdemeanor pursuant to Nebraska Revised Statutes §23-114.05 (Reissue 1997), as the same may be amended, and subject to a penalty of up to three (3) month's imprisonment and a \$500 fine or both. Each day any violation continues after notice of the violation has been given may be considered a separate offense.

33.7 NOTICE TO ABATE NUISANCE

Whenever a nuisance is found to exist within the County, the Director of Planning shall give written notice to those interested persons for the property upon which such nuisance exists or upon the person causing or maintaining the nuisance. For the purpose of this regulation, interested persons are: 1) the owner of record of the property, as determined by the records of

the Sarpy County Assessor; 2) any occupant or lessee of the property found on the property; 3) any person who files a written claim of interest in the property with the Director of Planning.

The notice to abate a nuisance issued under the provisions of these Regulations, unless otherwise specifically provided in a subsequent article, shall contain:

- (A) An order to abate the nuisance.
- (B) A procedure available to the interested persons for the purpose of convening a hearing on the sufficiency of the notice and/or the requirement to abate the alleged nuisance.
- (C) The location of the nuisance, if the same is stationary.
- (D) A description of what constitutes the nuisance.
- (E) A statement of acts necessary to abate the nuisance.
- (F) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the County shall abate such nuisance and assess the cost thereof against such interested person or the property.

The notice to abate a nuisance shall be served in the manner as a summons in a civil case may be served pursuant to law.

Upon receipt of a request for hearing or upon the failure to obey the order to abate or remedy the nuisance, the Director of Planning shall set a hearing date and shall fix the time and place at which interested persons of the building may appear and show cause as to why such building, structure, condition or use shall not be condemned as a nuisance.

The Director of Planning or his/her assistants shall immediately notify or cause to be notified, the interested persons of any building or structure or property declared to be a nuisance under the provisions of these regulations, in writing, wherein the hearing has been set, setting therein the date, time and place that the interested persons may appear and show cause why the County should not condemn such building, structure or property as a nuisance.

The notice of hearing provided for by this section shall be given not less than fifteen (15) days prior to the time of the hearing; provided that whenever the person or entity required to be given notice cannot be found, then the Director of Planning shall publish in the official legal newspaper such notice for two consecutive weeks, the last publication being at least one week prior to the date of the hearing. Hearings may be continued for up to twenty-one (21) days in order for adequate service to be properly given.

Upon the date fixed for hearing as provided by this subsection, and for which proper notice has been given, the Director of Planning or his/her assistants shall hear all objections made by the interested persons of the building, structure, property or use declared to be a nuisance, as well as evidence submitted by the Director of Planning or other person interested.

If, after consideration of all of the evidence produced, the Director of Planning or his/her duly-authorized assistant shall find that the building or structure is a nuisance under the provisions of these Regulations, he/she shall make an order directing the interested person to abate the nuisance or cause the building to be torn down and removed. The order shall state that the interested person has fifteen (15) days to appeal to the County Board of Commissioners, and that if no appeal is taken by the time, the order shall become effective at that time and will be final.

In the event that the interested person does not appear at the hearing, then the Director of Planning or his/her duly-authorized assistant shall order such nuisance abated or the building or

structure to be torn down and removed, and shall notify the interested persons, in writing, of this order and advising that if an appeal is not made the County Board of Commissioners within fifteen (15) days, such order shall become effective at that time and will be final.

After a building or structure has been declared a nuisance under the provisions of these Regulations and ordered torn down by the Director of Planning or his/her duly-authorized assistant, it shall be unlawful for any person to begin to use and/or occupy or to continue to use and/or occupy such building or structure. The Director of Planning or his/her duly-authorized assistant shall place upon such building or structure a placard setting forth that such building or structure has been condemned and declared unsafe for use and/or occupancy.

Should the interested persons refuse or neglect to promptly comply with the order to tear down and remove a building or structure condemned as a nuisance under the provisions of these Regulations, or place the premises in a safe condition, the Director of Planning or his/her duly-authorized assistant shall proceed with the tearing down and removal of such building or structure, and/or removal from the premises of the remaining debris, and shall place the premises in a safe condition.

33.8 ABATEMENT OF NUISANCE

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of these Regulations to abate the same, the Director of Planning shall proceed to abate such nuisance and shall prepare a statement of the actual costs incurred in the abatement thereof and shall deliver same for payment upon said person.

Any and all costs incurred by the County in the abatement of a nuisance under the provisions of these Regulations shall constitute a lien against the property upon which such nuisance existed. In the event a vehicle or parts thereof create the nuisance, said costs may also create a lien upon the vehicle or parts thereof, which lien or liens shall be filed, proven and collected as provided for by law. Such lien(s) shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.

The Director of Planning or his/her duly-authorized assistant shall sell, dispose of, and remove from the premises of a building or structure declared to be a nuisance under the provisions of these Regulations all materials, rubbish and debris resulting from the abatement and removal of such nuisance. The money so obtained shall be applied to the cost of such work. Any balance remaining after payment of all costs shall be applied on payment of any taxes and special assessments due and unpaid against such property. Any balance remaining thereafter shall be paid to the owner.

Any unpaid balance of the cost of abating and removing a building or structure declared to be a nuisance shall be provided for by resolution of the County Board of Commissioners from whatever fund is available or seems advisable, setting aside a sum specified by the Director of Planning or his/her duly-authorized assistant as required to pay such balance of cost. This cost, together with all expenses incurred in determining and levying the lien, shall be levied against the lot or tract of land upon which the building or structure is situated in the manner as provided by law for the assessment and levy of other special taxes. The lien so levied shall become due and payable immediately, then delinquent fifty (50) days thereafter, and shall bear interest at the same rate provided by state law for interest on delinquent special assessments.

33.9 APPEAL

Whenever the Director of Planning or his/her duly-authorized assistant makes a written determination and order as provided in Section 33.7, the owner, lessee, occupant or mortgagee of record may appeal from such determination and order to the County Board of Commissioners

by filing with the County Clerk written objections to said determination and order, within fifteen (15) days from the date of the determination and order. The written objections shall set forth the location of the property and all grounds for the objections.

Upon receipt of such written objections to the determination and order, the County Board of Commissioners shall set a hearing date and shall immediately notify the Director of Planning or his/her duly-authorized assistant and the objectors in writing that the hearing has been set before the County Board of Commissioners, stating therein the date, time and place of the hearing and that the parties are to appear before the County Board of Commissioners to be heard on such matter. The County Board of Commissioners shall hear the testimony of the objectors and the Director of Planning and other interested parties; and after such hearing, the County Board of Commissioners may affirm, modify, or reverse the determination of the Director of Planning or his/her duly-authorized assistant.