



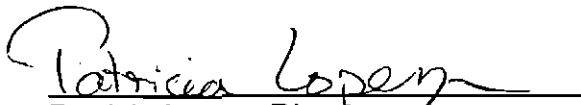
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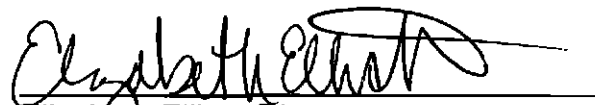
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ORDERNO. 28810

**BY VIRTUE OF THE AUTHORITY VESTED IN ME by the Mayor of the City of
Lincoln, Nebraska:**

Pursuant to the delegation of authority under Administrative Regulation No. 26, the attached Code of Conduct for Solid Waste Management Facilities and Business Operations is hereby adopted and approved by the Lincoln Transportation and Utilities Department and Lincoln-Lancaster County Health Department governing appropriate conduct at solid waste management facilities throughout the City of Lincoln.

The City Clerk is directed to return a copy of this Directorial Order and attached Code of Conduct to Jocelyn Golden, Assistant City Attorney, for transmittal to the respective departments.


Patricia Lopez, Director
Lincoln-Lancaster County
Health Department


Elizabeth Elliott, Director
Lincoln Transportation and
Utilities Department

Approved as to Form & Legality:


City Law Department

FILED

OCT 07 2022
CITY CLERK'S OFFICE

CITY OF LINCOLN TRANSPORTATION AND UTILITIES DEPARTMENT and LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT

CODE OF CONDUCT FOR SOLID WASTE MANAGEMENT FACILITIES AND BUSINESS OPERATIONS

I. PURPOSE

The City of Lincoln Transportation and Utilities Department (“LTU”) and the Lincoln-Lancaster County Health Department (“LLCHD”) have established this Code of Conduct to ensure that solid waste management facilities are safe, welcoming, and provide equitable access to individuals and staff. Responses to prohibited or disruptive conduct and/or illegal activity are outlined here.

II. OVERVIEW

Individuals, contractors, employees, customers, and staff are expected to conduct themselves reasonably and appropriately at all times. Generally, the vast majority of customers using the solid waste management facilities show respect for others and contribute to an atmosphere that is safe and welcoming. Staff frequently work with customers to address conduct that is of concern in a manner intended to lessen the frequency and intensity of such actions and to allow the individuals to be able to interact with others appropriately. However, when any one individual’s conduct is so disruptive, threatening, and/or offensive that he or she is impeding other customers from using the solid waste management facilities or threatening the safety and security of others or themselves, it is imperative that LTU and LLCHD staff have the ability to take steps to remedy the situation. Disruptive or prohibited conduct includes any individual or group activity which is harmful or disruptive to other individuals lawfully using solid waste management facilities or is otherwise inconsistent with regular activities normally associated with solid waste management facilities. Examples of various offenses herein are representative and not comprehensive.

III. DEFINITIONS

“**Premises**” shall include inside and outside areas of City of Lincoln solid waste management facilities and properties, including parking lots, managed and maintained by the LTU or LLCHD within or without the limits of the City which is under the City ownership or control, or locations where City solid waste management operations exist but which are owned by other public or private entities, which includes the following facilities:

1. North 48th Street Solid Waste Management Facility:
 - a. Small Vehicle Transfer Station;
 - b. Areas used for collection of banned items, (used oils, batteries, tires, cardboard) and recycling of metals;
 - c. Appliance De-Manufacturing;
 - d. Scalehouse/Gatehouse;
 - e. Yard Waste and Wood Waste;
 - f. Compost Distribution;
 - g. Maintenance Shop;
 - h. Construction & Demolition Waste Landfill;
 - i. HazToGo - Lincoln’s Hazardous Waste Center.
2. Bluff Road Facility:
 - a. Municipal Solid Waste Landfill, and associated soil borrow;
 - b. Yard Waste and Wood Waste;

- c. Compost Distribution;
 - d. Scalehouse/Gatehouse;
 - e. Landfill Gas and Leachate Management, including pumping locations and wellfield;
 - f. Bio-Solids Storage;
 - g. Areas used for collection of banned items (used oils, batteries, tires, cardboard) and recycling of metals.
3. Recyclables Collection Sites:
- a. Lewis Ballfield Recycling Site;
 - b. Seacrest Field Recycling Site;
 - c. 5101 North 48th Street Recycling Site;
 - d. South 27th and Tamarin Ridge Road Recycling Site;
 - e. Air Park Recycling Site;
 - f. Highlands Fire Station Recycling Site;
 - g. Coddington & “A” Street (Russ’s Market) Recycling Site;
 - h. West “P” & Roundhouse Drive Recycling Site.
4. Mobile Household Hazardous Waste Collection Sites (depending on where they may be located throughout the City on any particular date).

“Director” shall mean the Director of LTU or the Director of LLCHD or the designated representative, depending on the location of the Premises where the behavior occurred.

“Staff” shall mean employees or volunteers of LTU or LLCHD who are assigned to work at solid waste management facilities, including any temporary workers employed by contractors pursuant to contracts with City.

“Customer” shall mean an individual who utilizes, is present at, or communicates regarding Premises, which individual is not functioning in his or her capacity as City staff.

“Disruptive Conduct” shall mean any identified inappropriate, disruptive or undesirable behaviors that would warrant the intervention of LTU or LLCHD staff.

“Prohibited Conduct” shall mean any identified behaviors that are deemed illegal or that create an unsafe, threatening or insecure environment for other individuals. This conduct can result in immediate expulsion from solid waste management facilities, with local law enforcement assistance if required.

“Suspension” or “suspended” shall mean that an individual is provided written notice that he or she is not allowed on the Premises by LTU or LLCHD for a period of up to thirty (30) days as determined by staff, generally for disruptive conduct.

“Banning” or “banned” shall mean that an individual is provided written notice that he or she is not allowed on the Premises by LTU or LLCHD for an extended period of time greater than thirty (30) days, as determined by the respective Director, generally for prohibited conduct.

IV. PROHIBITED CONDUCT

The following prohibited conduct will be seen as grounds for immediate expulsion, suspension, and/or banning from any one and/or all solid waste management facilities defined as the Premises above. Refusal to leave any one of the Premises when asked to do so by staff shall result in a call to local law enforcement for assistance. This list is not intended to be all-inclusive of all prohibited conduct that might occur.

1. Possessing or under the influence of alcohol or drugs or smoking in prohibited areas.
2. Trespassing knowingly into non-public areas of the Premises without prior permission.
3. Operating a motorized vehicle by speeding, engaging in distracted driving (including cell phone use), in an aggressive manner involving other individuals, blocking in other vehicles, and/or suspected impairment by alcohol or drugs.
4. Using abusive, indecent, profane, or threatening language, including but not limited to name-calling, bullying, obscenities, sexist, and/or racist language in person, by phone or by electronic means.
5. Behaving in a physically violent, threatening, or aggressive manner or any behavior that threatens an individual's safety and security, including the individual's own safety.
6. Possessing weapons, loaded firearms, or explosive substances, including fireworks, other than by authorized law enforcement personnel or as allowed by permit or written agreement.
7. Panhandling (food, money, cigarettes, etc.) at solid waste management facilities.
8. Selling, soliciting, or engaging in any other commercial activity without prior written permission from the Director.
9. Interfering with staff's ability to deliver services or to create and maintain a safe and secure environment for other customers and individuals.
10. Vandalizing, damaging, or misusing of City equipment or supplies that results in facilities or equipment becoming inoperable or that results in more than nominal financial loss to the City.
11. Ignoring, failing, or intentionally disregarding directions of staff after being directed to engage in or stop certain conduct, including disregard of any code of conduct or signage.
12. Throwing refuse, recyclables, or items from vehicles or at individuals.
13. Standing in front of equipment operated by staff.
14. Scavenging.
15. Trespassing or being present at the Premises when the facilities are closed, including dumping of solid waste when the facilities are closed and not during hours of operation. This shall not include recyclables collection sites described above, which operate 24/7/365.
16. Setting fires.
17. Engaging in illegal dumping or leaving unacceptable or banned wastes that requires staff to remove such materials.
18. Committing any criminal offense or participating in any illegal activity, including theft, or violation of Lincoln Municipal Code ordinances, including but not limited to LMC Chapter 8.32 and LMC Chapter 5.41.

Individuals exhibiting prohibited conduct will be required to leave the Premises immediately for the remainder of the day. Depending on the severity of the conduct, an individual may be required to leave the Premises with no warning given. Staff response shall be documented. Individuals may

be subsequently suspended for a period of up to thirty (30) days or banned for a period of thirty (30) days or more after review by and at the discretion of the appropriate Director, depending on the nature of the offense. Certain offenses may warrant longer banning up to and over one (1) year, although all prohibited conduct are considered serious enough to require banning. See Suspension and Banning Procedure herein.

V. DISRUPTIVE CONDUCT

Additional conduct not listed herein may be inappropriate and disruptive as inconsistent with appropriate use of the Premises, including violation of rules and regulations of LTU and/or LLCHD. Generally, disruptive conduct will be regarded as a lesser offense than prohibited conduct described above. Response to disruptive conduct will generally be progressive in nature. Disruptive conduct shall be determined by staff based on their observation of the conduct and the totality of the circumstances, especially if the situation will benefit from de-escalation of the conflict. In the event the disruptive conduct does not desist by de-escalation or by resolution of the parties involved, the individuals exhibiting disruptive behavior will receive a verbal warning for a first violation. Continued or repeated disruptive conduct will result in being required to leave the Premises for the remainder of the day and potential suspension. Staff response may be documented and used in response to the individual's disruptive conduct in the future. Repeat exhibition of disruptive conduct that results in being required to leave the Premises more than once in a one (1) year time period may result in suspension or banning for additional time. See Suspension and Banning Procedure.

VI. SUSPENSION AND BANNING PROCEDURE

A. With any prohibited conduct or any disruptive conduct that cannot be mitigated or resolved as provided herein, staff will initially issue or cause to be issued a written notification of a suspension, herein after referred to as "Notification of Suspension," to the individual committing the offense which shall give notice to the individual the reason(s) for the suspension.

B. The first suspension by staff shall be for a maximum period of seven (7) days and shall be a suspension from the Premises and/or class of facilities of LTU and/or LLCHD. If an individual has previously been suspended for a violation of disruptive conduct within the prior one (1) year or if the offense is especially egregious, he or she may be suspended by supervisory staff for a maximum period of thirty (30) days from the Premises and/or class of facilities of LTU. Individuals may be banned for longer periods of time greater than thirty (30) days, which shall be determined based on the egregious nature of the offense, in the discretion of the Director.

C. Staff will immediately forward a copy of the Notification of Suspension to the Director for those offenses serious enough to potentially merit a banning. Upon a finding by the Director that there are reasonable grounds to believe an individual should be banned from any or all of the Premises, the Director shall issue a written banning order, hereinafter referred to as "Banning Order". The Banning Order shall notify the individual of the ban, period of the ban, the reason(s) for the banning, and to what Premises the banning applies. Banning Orders of six (6) months or more shall be reviewed by the Law Department prior to issuance.

D. The Banning Order shall be served upon the banned individual by certified registered mail and by U.S. Mail when such individual's address is known, or by hand delivery by any staff upon knowledge of the individual's entry into any Premises or by any contact with the banned individual. Email delivery may also be appropriate when the email address is known and the individual has used the email address to communicate with the City. A copy of the Banning

Order shall also be provided to law enforcement and the Law Department. Notification of the Banning Order will be provided to all relevant staff.

E. The banned individual shall have the ability to appeal the Banning Order as provided herein.

VII. APPEAL PROCEDURE OF BANNING ORDER

A. A banned individual may appeal the Banning Order to the Director by filing with LTU or LLCHD, depending on the location of the Premises where the conduct occurred, a notice of appeal, hereinafter referred to as "Notice of Appeal from Banning Order." The banned individual will hereinafter be referred to as "Appellant." The Notice of Appeal of Banning Order shall contain the Appellant's name, address, and telephone number if available.

B. Upon receipt of a Notice of Appeal of Banning Order, the Director shall set a date and time certain for a hearing on the appeal within fifteen (15) days from receipt of the Notice of Appeal of Banning Order, although this deadline may be extended with the written consent of the Appellant. The Appellant shall be notified of this date by regular mail to the address indicated on the Notice of Appeal of Banning Order or by email the banned individual has engaged in email communication with the City.

C. In order to be assured a review of the merits at the hearing, the Appellant must be present at the hearing at which the appeal is heard, which appearance may be by virtual meeting. Failure of the Appellant to attend the hearing may result in a dismissal of the appeal by the Director, which by operation will leave the Banning Order in effect.

D. The hearing shall occur in the presence of the Director or designated representative; and the City Attorney or designated representative.

E. At the hearing, evidence may be presented. The Appellant shall not be required to offer evidence at the hearing. The hearing shall not last more than thirty (30) minutes.

F. After the hearing, the Director, within fifteen (15) days of the hearing on appeal, shall make a final binding written order, hereinafter referred to as "Final Order." The Final Order shall be mailed to the Appellant at the address provided in the Notice of Appeal of Banning Order or by email the banned individual has engaged in email communication with the City. The Final Order should contain the final decision of the Director and be approved to form and legality by the Law Department.

G. The Final Order is appealable to the proper court of law.

VIII. NON-COMPLIANCE: TRESPASSING

If a banned individual enters or refuses to leave any designated Premises before the return date listed in the Banning Order or the Notification of Suspension, pursuant to staff's request to leave, the banned individual will be considered as trespassing and law enforcement will be called.

Approved by Lincoln Transportation and Utilities Department and Lincoln-Lancaster County Health Department: _____, 2022

Attachment #1 NOTIFICATION OF SUSPENSION

TO: *(insert name)*

On *(insert date)* at approximately *(insert time)* you were observed at *(insert name of facility)*. At that time you were exhibiting the following disruptive, prohibited or illegal conduct: *(insert qualifying conduct)*.

Because of the conduct listed above, and/or other documented incidents of disruptive conduct at City of Lincoln's solid waste management facilities, you are temporarily suspended from the premises: *(insert name of facility or class of facility)* for *(insert number of days)* days. You are suspended from *(insert date)* through *(insert date)*. If you are on these premises during the suspension period, you will be considered trespassing and law enforcement shall be called. The Director of the Lincoln Transportation and Utilities Department or the Director of the Lincoln-Lancaster County Health Department or his/her designated representative will review your suspension to determine if banning is appropriate. You will be notified if further action will be taken.

Staff initials: _____

Date Issued: _____

Attachment #2 BANNING ORDER

(Date)

CERTIFIED MAIL

(Name of Individual)

(Mailing Address)

(City, State, ZIP)

Dear Mr./Mrs./Miss **(insert last name)**:

Please be advised that as of **(insert beginning ban date)**, you are banned from **(insert name of premises or class of facility)** of the Lincoln Transportation and Utilities Department/Lincoln-Lancaster County Health Department for a period of **(insert number of days/months)** through **(insert date)**. You are banned for the following reason(s): **(insert incident/s here)**. The Lincoln Police Department has been notified of your being banned from all solid waste management facilities. Failure to adhere to this notice will be considered trespassing. If you wish to appeal this banning, you shall have fifteen (15) days from receipt of this notice to appeal. You may appeal this decision by filing a Notice of Appeal with the Lincoln Transportation and Utilities Department at _____ Street, Lincoln, Nebraska 685__ /Lincoln-Lancaster County Health Department at _____ Street, Lincoln, Nebraska 685__. The Notice of Appeal shall consist of a letter stating your desire to have the Director or his/her designated representative's decision reviewed. The Notice of Appeal shall contain the address or email address to which you wish to have future notices sent.

Sincerely,

Lincoln Transportation and Utilities Director/Lincoln-Lancaster County Health Department

cc: Lincoln Police Department
City Attorney's Office