Chapter 8.18

COMMUNICABLE DISEASE ACT

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8.18.010 Title.
This chapter shall be known as the Communicable Disease Act of 2007. (Ord. 18950 §1; June 25, 2007).

8.18.020 Purpose.
The City Council finds the need to define and authorize appropriate actions and procedures to be taken in the surveillance and monitoring of communicable, contagious, and infectious diseases that may threaten the public’s health, safety and welfare; Such actions and procedures are for the purpose of:

(a) Promoting the health and welfare of the citizens of this city by preventing the spread of communicable, contagious and infectious diseases;
(b) Assuring early identification, follow-up and response to a public health threat due to communicable, contagious, and infectious diseases;
(c) Minimizing disease transmission potential of communicable, contagious and infectious diseases;
(d) Minimizing the restrictions imposed on persons who have or may have been exposed to a communicable, contagious or infectious disease.

It is therefore, declared to be the public policy of this city to ensure that appropriate reporting is required of health care providers and clinical laboratories, that disease monitoring procedures, follow-up investigations, and infection control processes are undertaken, including isolation and quarantine orders when necessary to prevent and control the spread of diseases that threaten the
health and welfare of the community; enforcement of said orders; and providing penalties for violations. (Ord. 18950 §2; June 25, 2007).

8.18.030 Definitions.
For purposes of this chapter, definitions shall include the following:

Clinical laboratory shall mean any laboratory where diagnostic or other screening procedures are performed on blood or other potentially infectious materials.

Communicable disease shall mean any disease caused by an infectious agent or toxic product produced by such agent that is capable of being transmitted from individual to individual either directly or indirectly.

Confirmed laboratory test shall mean a laboratory test that documents the presence of a communicable or infectious disease.

Contagious disease shall mean an infectious disease that can be transmitted from individual to individual either directly or indirectly.

Health care facility shall mean any institution, building, or agency, or portion thereof, whether public or private (for-profit or nonprofit) that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. This includes, but is not limited to, ambulatory surgical centers, assisted-living facilities, centers or group homes for the developmentally disabled, critical access hospitals, general acute hospitals, health clinics, hospitals, intermediate care facilities, mental health centers, nursing facilities, adult day care centers, pharmacies, psychiatric or mental hospitals, public health clinics, rehabilitation hospitals, skilled nursing facilities, or substance abuse treatment centers.

Health care provider shall mean an individual who is licensed, certified, or otherwise authorized by the State of Nebraska to administer health care in the ordinary course of business or practice of a profession.

Health Director shall mean the Director of the Lincoln-Lancaster County Health Department or his or her designated representative.

Infectious disease shall mean any disease caused by the growth of microorganisms in the body. An infectious disease may or may not be communicable. Infectious disease may include, but is not limited to, hepatitis A, hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, diphtheria, plague, any hemorrhagic fever, and rabies.

Isolate, isolated, or isolation shall mean the physical separation and confinement of an individual or individuals who are symptomatic or have received a positive confirmatory laboratory test related to a communicable disease that poses a public health threat.

Placard shall mean an official document posted for public display, such as a license or permit.

Probable diagnosis shall mean any time that a health care provider, based upon clinical findings, suspects an individual has a communicable disease.

Public sector partner shall mean the international, federal, tribal, or other state or local governments and their public health agencies that provide essential public health services and functions or work to improve public health outcomes with a state or local public health agency.

Quarantine shall mean the physical separation and confinement of an individual or groups of individuals, who are or may have been exposed to a communicable disease that poses a public health threat and who do not show signs or symptoms of a contagious disease, from non-quarantined individuals, to prevent or limit the transmission of the disease to non-quarantined individuals.
Reportable communicable disease shall mean a subset of communicable diseases that may pose serious health consequences, such as hospitalization or mortality, to individuals who may contract the disease. These would include novel strains of viruses, vaccine preventable diseases that have been eradicated or nearly so, other highly infectious diseases identified as sentinel diseases, and any such disease as the Health Director or the Nebraska Department of Health and Human Services Regulation and Licensure may specify from time to time. The common cold, and other highly contagious diseases which do not pose a public health threat are not included. (Ord. 18950 §3; June 25, 2007).

8.18.040 Reportable Communicable Diseases.

(a) In addition to the reportable diseases provided in Title 173 of the Nebraska Administrative Code, Section 1-003, the Health Director shall have the authority to require reports of additional communicable diseases and determine an appropriate reporting deadline for such reportable communicable diseases. The Health Director shall make available a list of said additional diseases identified by the Health Director.

(b) Under certain circumstances, such as a declared public health emergency or based on medical advice from a public sector partner, the Health Director may modify all reportable times for any disease to a shorter time frame. The Health Director shall notify all health care providers and clinical laboratories of the modified times through the customary physician notifications, including physician advisories and the Health Alert Network. (Ord. 18950 §4; June 25, 2007).

8.18.050 Duty to Report.

(a) Upon probable diagnosis or detection of those reportable diseases listed in 173 NAC 1-003.01(A) and (B) and 1-003.02, a health care provider shall have the duty to make immediate reports of such diseases to the Health Director as specified in 173 NAC 1-004.01.

(b) Any individual who is in charge of a clinical laboratory shall have the duty to report to the Health Director, all positive laboratory or confirmatory tests for a reportable communicable disease or infectious disease as specified in 173 NAC 1-004.02.

(c) Upon probable diagnosis or detection of those diseases identified by the Health Director in Section 8.18.040 (a), a health care provider and/or clinical laboratory shall have the duty to make reports of such diseases to the Health Director within the designated time frame after diagnosis or detection.

(d) Health care providers, clinical laboratories, and any individual acting on their behalf shall comply with reasonable requests for information, in a reasonable period of time, from the Health Director who is engaged in an active disease investigation.

(e) It shall be unlawful for any person required to report a reportable communicable disease or infectious disease to provide false information to the Health Director. (Ord. 18950 §5; June 25, 2007).

8.18.060 Duty to Report; Contents; Transmission.

(a) All communicable disease reports shall at a minimum include the date and result of the test performed, the name and, when available, the date of birth, gender, and address of the individual from whom the specimen was obtained, and the name and address of the health care provider for whom such examination or test was performed.
(b) Reports required by Section 8.18.050 (a) through (c) shall be transmitted to the Health Director by telephone, facsimile, or other secure electronic mail system. (Ord. 18950 §6; June 25, 2007).

8.18.070 Lead Agency.

The Lincoln-Lancaster County Health Department shall be the lead agency for any response or activities related to a communicable disease outbreak based on surveillance data or when there is other reasonable information which is indicative of a potential or existing communicable disease outbreak, epidemic or pandemic within the City of Lincoln or Lancaster County. (Ord. 18950 §7; June 25, 2007).

8.18.080 Isolation and Quarantine; General Conditions and Principles.

(a) Isolation and quarantine must be by the least restrictive means necessary to prevent the spread of a contagious or possibly contagious disease to others.

(b) Isolated individuals must be confined separately from quarantined individuals except when the premises allow adequate physical and airflow separation.

(c) The health status of isolated and quarantined individuals must be monitored regularly to determine if they continue to require isolation or quarantine.

(d) Isolation and quarantine must be immediately terminated when an individual poses no substantial risk of transmitting a contagious or possibly contagious disease to others.

(e) An individual’s residence will be the least restrictive and preferred option for quarantine or isolation. In all other cases, to the extent possible, premises used for isolation and quarantine shall be maintained in a safe and hygienic manner and be designed to minimize the likelihood of further transmission of infection.

(f) To the extent possible, cultural and religious beliefs shall be respected in addressing the needs of individuals, and establishing and maintaining isolation and quarantine premises, subject to those limitations necessary to maintain facility safety, security, and order, along with the need to minimize the risk of transmitting a contagious disease to others. (Ord. 18950 §8; June 25, 2007).

8.18.090 Isolation and Quarantine; Orders.

(a) An order for isolation shall be made by the Health Director when the following conditions are met:

(1) When there is a confirmed laboratory test for an individual or individuals of a reportable communicable disease or a probable diagnosis of a reportable communicable disease;

(2) After consultation with local and state medical specialists in infectious and communicable diseases it is recommended that isolating the individual(s) could lessen the spread of the disease within the community;

(3) When voluntary isolation has been determined by the Health Director to be ineffective or insufficient to minimize the threat to public health, safety, and welfare; and

(4) A determination has been made by the Health Director that isolation is the least restrictive means to prevent the spread of a contagious or possibly contagious disease to others.

(b) An order for quarantine shall be made by the Health Director when the following conditions are met:

(1) An individual or individuals has/have experienced:

(i) Exposure to a known case of a highly infectious reportable disease or contact with an individual known to have a reportable communicable disease; or
(ii) Suspected contact with an animal, or animal of a species or a vector known to be a carrier for a communicable disease; or

(iii) Based upon information from a public sector partner, or an individual, that the individual has traveled to or from, or been in the proximity of a geographic area where there has been an outbreak of a highly contagious infectious disease.

1. After consultation with local and/or state medical specialists in infectious and communicable diseases it is recommended to quarantine the individual(s) during a normal incubation period for the specific disease;

2. When voluntary measures have been determined to be ineffective or insufficient to minimize the threat to public health, safety, and welfare; and

3. A determination has been made by the Health Director that quarantine is the least restrictive means to prevent the spread of a contagious or possible contagious disease to others. (Ord. 18950 §9; June 25, 2007).

8.18.100 Isolation Order, Quarantine Order: Contents.

(a) The Health Director shall issue an isolation or quarantine order to an individual or individuals, when feasible, including the following information:

1. Name and identifying information of the individual subject to the order;

2. Brief statement of the facts warranting the order, including the suspected contagious disease;

3. Date and time at which isolation or quarantine commences and terminates;

4. The location of isolation or quarantine;

5. Prohibition of contact with individuals except as approved by the Health Director;

6. Recommended treatment or prophylaxis;

7. Required conditions to be met for visitation, if allowed;

8. Instructions on the disinfecting or disposal of any personal property of the individual;

9. Required precautions to prevent the spread of the disease; and

10. Availability of a hearing to contest the order, including the procedure thereof.

(b) The Health Director may issue an isolation or quarantine order to large numbers of individuals, or unidentified individuals, by mass media, including the following information:

1. Identifying information of the group of individuals subject to the order;

2. Brief statement of the facts warranting the order, including the suspected contagious disease;

3. Date and time at which isolation or quarantine commences and terminates;

4. The location of isolation or quarantine;

5. General prohibition of contact with individuals until contact has been made with the Health Director;

6. Recommended treatment or prophylaxis;

7. Required precautions to prevent the spread of the disease;

8. Instructions to contact the Health Director immediately to receive further information and necessary instructions; and

9. Availability of a hearing to contest the order, including the procedure thereof.

Once an individual, subject to a order issued by mass media, contacts the Health Director a new isolation or quarantine order shall be issued in the manner prescribed in Section 8.18.100(a), if isolation or quarantine is still necessary. (Ord. 18950 §10; June 25, 2007).
8.18.110 Residence or Structure Containing Quarantined and/or Isolated Individuals; Placard.

(a) A residence or structure or commercial entity that contains a quarantined and/or isolated individual, or group of people, shall be placarded in the following manner:

(1) A placard shall be placed near all possible points of entry; and

(2) Such placard shall contain the limitations upon the quarantine or isolation, including, but not limited to: required personal protective equipment, precautions, etc.

(b) It shall be unlawful for any individual who is not authorized by the Health Director to enter a residence or structure or commercial entity that has been placarded.

(c) It shall be unlawful for any individual, or group of people, to deface, alter, mutilate, destroy, tear down, or remove the placard without the express, written permission of the Health Director.  (Ord. 18950 §11; June 25, 2007).

8.18.120 Isolation Order, Quarantine Order; Notice, Service.

(a) Orders directed to an individual will be delivered in a manner reasonably calculated to give the individual actual notice of the terms of the order consistent with the threat of communicable diseases. The Health Director may serve notice of the order of isolation or quarantine as follows:

(1) By personal service to the individual, except in the cases where personal delivery would present a spread of disease or exposure to agents that cannot be avoided by measures reasonably available; or

(2) By certified mail, postage prepaid, return receipt requested to the individual’s last known address; or

(3) By electronic transmission via e-mail or telefacsimile, provided that any available means of determining and recording receipt of such notice will be made, and further provided that notice by certified mail shall accompany such electronic transmission.

(4) Orders directed to large numbers of individuals or a population may be disseminated by mass media.

(b) The individual making personal service pursuant to this section shall provide a written declaration under penalty of perjury identifying the individual served and the time, date, and manner of service as proof of service.  (Ord. 18950 §12; June 25, 2007).

8.18.130 Hearings.

(a) Any individual subject to an order under this chapter may request a hearing in front of the Health Director to contest the validity of the order.

(b) The Health Director shall conduct hearings no later than three days after a request for a hearing.

(c) In the event the Health Director is unavailable, the Health Director may appoint a suitable hearing officer to hear the matter. Such hearing officer shall make recommendations based on the evidence adduced at the hearing for the Health Director’s final determination of the matter.

(d) The hearing need not be conducted according to the technical rules relating to evidence and witnesses. The individual requesting the hearing and the Health Director may:

(1) Call and examine witnesses on any matter relevant to the issues of the hearing;

(2) Introduce documentary and physical evidence;

(3) Cross examine opposing witnesses on any matter relevant to the issues of the hearing; and

(4) Rebut evidence.
(e) The Health Director may uphold, reverse, or modify the order. The Health Director may also take such other reasonable action as the Health Director may determine proper in relation to the request.

(f) The Health Director shall make a final determination within one day after the hearing.

(g) The Health Director’s decision shall be final and binding. The Health Director’s decision may be appealed to the district court as provided by law. (Ord. 18950 §13; June 25, 2007).

8.18.140 Enforcement and Related Powers.

(a) In addition to the Health Director, the Lincoln Police Department and/or the Lancaster County Sheriff’s Department shall enforce any and all orders issued by the Health Director pursuant to this chapter.

(b) The Health Director may order the closure of, or restrict access to any business, office, healthcare facility, school or government agency or department for the purpose of controlling the spread of disease or for any activity related to controlling the spread of disease.

(c) The Health Director may allow any necessary or critical business, office, healthcare facility, school, or government agency or department to remain operational.

(d) The Health Director may adopt any other control measures which are consistent with applicable guidelines of a public sector partner, emergency management agency, and other applicable laws and regulations. (Ord. 18950 §14; June 25, 2007).

8.18.150 Unlawful Exposure of Another Individual.

It shall be unlawful for an individual with a known reportable communicable disease, which disease is potentially life-threatening and presently incurable, to intentionally expose another individual or group of individuals to said disease except where an individual or group of individuals has expressly consented to the risk of exposure through specified behavioral activities. (Ord. 18950 §15; June 25, 2007).

8.18.160 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter. (Ord. 18950 §16; June 25, 2007).

8.18.170 Penalties.

Any person who is found to have violated any provision of this chapter shall be subject to a fine of no more than $500.00, or imprisonment in the county jail for a period not to exceed six months, or both such fine and imprisonment. Each day that a violation of this chapter continues is punishable as a separate and distinct offense. In addition to any penalty sought or obtained under this chapter or other applicable law, the City Attorney may institute injunctive or other appropriate civil proceedings necessary to obtain compliance or to abate any nuisance resulting from violations of this chapter. (Ord. 18950 §17; June 25, 2007).