

## **CHAPTER 3 – MISDEMEANORS**

### **ARTICLE 1 – GENERAL MISDEMEANORS**

- SECTION 3-101: OBSTRUCTING AN OFFICER**
- SECTION 3-102: HINDERING OFFICER OR RESISTING ARREST**
- SECTION 3-103: IMPERSONATING OFFICER**
- SECTION 3-104: FALSE REPORTING**
- SECTION 3-105: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON**
- SECTION 3-106: CONCEALED WEAPON**
- SECTION 3-107: DISCHARGE OF FIREARMS; DANGEROUS PROJECTILES**
- SECTION 3-108: STALKING**
- SECTION 3-109: CRIMINAL TRESPASS**
- SECTION 3-110: PUBLIC INDECENCY; URINATION OR DEFECATION**
- SECTION 3-111: PUBLIC NUDITY; AIDING AND ABETTING**
- SECTION 3-112: SEXUAL PREDATORS AND OFFENDERS**
- SECTION 3-113: WINDOW PEEPING**
- SECTION 3-114: CRIMINAL MISCHIEF**
- SECTION 3-115: THEFT**
- SECTION 3-116: SHOPLIFTING**
- SECTION 3-117: RECEIVING STOLEN PROPERTY**
- SECTION 3-118: THREATS; ASSAULT IN THE THIRD DEGREE**
- SECTION 3-119: DISORDERLY CONDUCT**
- SECTION 3-120: UNLAWFUL ASSEMBLY; OBSTRUCTION OF PUBLIC WAY**
- SECTION 3-121: DISTURBING AN ASSEMBLY**
- SECTION 3-122: DISTURBING THE PEACE**
- SECTION 3-123: RIOTING**
- SECTION 3-124: EXCESSIVE NOISE**
- SECTION 3-125: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS**
- SECTION 3-126: CURFEW**
- SECTION 3-127: ALCOHOL; MINOR IN POSSESSION**
- SECTION 3-128: ALCOHOL; MISREPRESENTATION BY MINOR**
- SECTION 3-129: TOBACCO AND NICOTINE PRODUCTS; MINORS; VENDORS**
- SECTION 3-130: TOBACCO AND NICOTINE PRODUCTS; MISREPRESENTATION BY MINOR**
- SECTION 3-131: LITTERING**
- SECTION 3-132: NOTICES; ADVERTISEMENTS**
- SECTION 3-134: APPLIANCE OUTDOORS**
- SECTION 3-135: OBSTRUCTING PUBLIC WAYS**
- SECTION 3-136: OBSTRUCTING WATER FLOW**
- SECTION 3-137: INJURY TO PLANTS AND TREES**

**SECTION 3-138: PARKS; INJURY TO PROPERTY; LITTERING**  
**SECTION 3-139: PROHIBITED FENCES**

**ARTICLE 2 – DOGS AND CATS**

**SECTION 3-201: DEFINITIONS**  
**SECTION 3-202: RABIES VACCINATION**  
**SECTION 3-203: LICENSING; RABIES CERTIFICATE; FEES**  
**SECTION 3-204: COLLAR OR HARNESS; OWNER’S ID; LICENSE TAG; RUNNING AT LARGE**  
**SECTION 3-205: WRONGFUL LICENSING**  
**SECTION 3-206: DAMAGE; LIABILITY OF OWNER**  
**SECTION 3-207: BARKING AND OFFENSIVE BEHAVIOR; COMPLAINT**  
**SECTION 3-208: KILLING AND POISONING**  
**SECTION 3-209: FEMALE IN SEASON**  
**SECTION 3-210: FIGHTING DOGS**  
**SECTION 3-211: RABIES SUSPECTED; IMPOUNDMENT**  
**SECTION 3-212: POTENTIALLY DANGEROUS DOG; DETERMINATION OF; NOTICE; CERTIFICATE OF REGISTRATION**  
**SECTION 3-213: POTENTIALLY DANGEROUS DOG; RESTRAINT**  
**SECTION 3-214: DANGEROUS DOGS; DEFINITIONS**  
**SECTION 3-215: DANGEROUS DOG; PROHIBITED**  
**SECTION 3-216: DANGEROUS DOGS; CONFINED; WARNING SIGN**  
**SECTION 3-217: DANGEROUS DOGS; RESTRAINED**  
**SECTION 3-218: DANGEROUS DOGS; FAILURE TO COMPLY**  
**SECTION 3-219: DANGEROUS DOGS; VIOLATION; PRIOR CONVICTION**  
**SECTION 3-220: DANGEROUS DOG OR POTENTIALLY DANGEROUS DOG; IMPOUNDMENT**  
**SECTION 3-221: DANGEROUS DOG OR POTENTIALLY DANGEROUS DOG; VIOLATIONS; PENALTY; DESTRUCTION**  
**SECTION 3-222: ANIMAL SHELTER**  
**SECTION 3-223: IMPOUNDMENT**  
**SECTION 3-224: IMPOUNDING; FEES FOR DESTROYED ANIMALS**  
**SECTION 3-225: INTERFERENCE WITH ANIMAL CONTROL**

**ARTICLE 3 – ANIMALS GENERALLY**

**SECTION 3-301: POULTRY; PERMIT REQUIREMENTS; RESTRICTIONS**  
**SECTION 3-302: ANIMALS; PERMIT REQUIRED**  
**SECTION 3-303: PERMITS; PROCEDURE FOR ISSUANCE**  
**SECTION 3-304: PERMITS; ENCLOSURES; DISTANCE REQUIREMENTS**  
**SECTION 3-305: PERMITS; LIMITS ON NUMBER AND TYPES OF ANIMALS**  
**SECTION 3-306: PERMITS; AREA REQUIREMENTS**  
**SECTION 3-307: PERMITS; SANITATION REQUIREMENTS**

- SECTION 3-308: PERMITS; FOOD, WATER, HEALTH CARE; OWNER'S DUTY**
- SECTION 3-309: PERMITS; REVOCATION**
- SECTION 3-310: RUNNING AT LARGE**
- SECTION 3-311: WILD ANIMALS**
- SECTION 3-312: CAPTURE IMPOSSIBLE**

**ARTICLE 4 – NUISANCES**

- SECTION 3-401: PUBLIC NUISANCES PROHIBITED**
- SECTION 3-402: GENERALLY DEFINED**
- SECTION 3-403: SPECIFICALLY DEFINED**
- SECTION 3-404: NOTICE PROCEDURE; ABATEMENT**
- SECTION 3-405: JURISDICTION**
- SECTION 3-406: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL**

**ARTICLE 5 – DANGEROUS AND VACANT BUILDINGS**

- SECTION 3-501: DANGEROUS BUILDINGS; DETERMINATION; AND DEFINITIONS**
- SECTION 3-502: DANGEROUS BUILDINGS; BUILDING INSPECTOR**
- SECTION 3-503: DANGEROUS BUILDINGS; STANDARDS**
- SECTION 3-504: DANGEROUS BUILDINGS; UNLAWFUL MAINTENANCE**
- SECTION 3-505: DANGEROUS BUILDINGS; NUISANCE; PROCEDURE**
- SECTION 3-506: DANGEROUS BUILDINGS; FAILURE TO COMPLY**
- SECTION 3-507: DANGEROUS BUILDINGS; DISPUTES**
- SECTION 3-508: DANGEROUS BUILDINGS; APPEAL**
- SECTION 3-509: DANGEROUS BUILDINGS; IMMEDIATE HAZARD**
- SECTION 3-510: VACANT BUILDINGS; DEFINITIONS**
- SECTION 3-511: VACANT BUILDINGS; REGISTRATION**
- SECTION 3-512: VACANT BUILDINGS; FEES**
- SECTION 3-513: VACANT BUILDINGS; EXEMPTIONS**
- SECTION 3-514: VACANT BUILDINGS; INSPECTIONS**
- SECTION 3-515: VACANT BUILDINGS; EMERGENCY REPAIRS**
- SECTION 3-516: VACANT BUILDINGS; COSTS OF EMERGENCY REPAIRS; HEARING; APPEAL**
- SECTION 3-517: VACANT BUILDINGS; PENALTIES**
- SECTION 3-518: VACANT BUILDINGS; ALTERNATIVE PROCEDURES**
- SECTION 3-519: VACANT BUILDINGS; DUE PROCESS**

**ARTICLE 6 – PENAL PROVISIONS**

- SECTION 3-601: VIOLATION; PENALTY**
- SECTION 3-602: ABATEMENT OF NUISANCE**



## **CHAPTER 3 – MISDEMEANORS**

### **Article 1 – General Misdemeanors**

#### **SECTION 3-101: OBSTRUCTING AN OFFICER**

It shall be unlawful for any person to use or threaten to use violence, force, physical interference, or obstacle to intentionally obstruct, impair, or hinder the enforcement of the penal law or the preservation of the peace by a peace officer acting under color of his or her official authority or a police animal assisting a peace officer acting pursuant to the peace officer's official authority. "Police animal" shall mean a horse or dog owned or controlled by the State or any county, city or village for the purpose of assisting a law enforcement officer acting pursuant to his or her official authority. (Neb. Rev. Stat. §28-906)

#### **SECTION 3-102: HINDERING OFFICER OR RESISTING ARREST**

It shall be unlawful for any person in this city to hinder, obstruct, or resist any law enforcement officer in making any arrest or performing any duty of his or her office. (Neb. Rev. Stat. §28-904)

#### **SECTION 3-103: IMPERSONATING OFFICER**

It shall be unlawful for any person to falsely pretend to be a law enforcement officer and perform any act in that pretended capacity. (Neb. Rev. Stat. §28-610)

#### **SECTION 3-104: FALSE REPORTING**

It shall be unlawful for any person to:

A. Furnish material information he or she knows to be false to any law enforcement officer or other official with the intent to instigate an investigation of an alleged criminal matter or impede the investigation of an actual criminal matter;

B. Furnish information he or she knows to be false, alleging the existence of (1) a need for the assistance of an emergency medical service or out-of-hospital emergency care provider or (2) an emergency in which human life or property is in jeopardy to any hospital, emergency medical service, or other person or governmental agency;

C. Furnish any information, or cause such information to be furnished or conveyed by electric, electronic, telephonic, or mechanical means knowing the same to be false concerning the need for assistance of a fire department or any personnel or equipment of such department;

D. Furnish any information he or she knows to be false concerning the location of any explosive in any building or other property to any person;

E. Furnish material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an on-going investigation and which actually results in causing or impeding such investigation. (Neb. Rev. Stat. §28-907)

### **SECTION 3-105: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON**

A. It shall be unlawful for any person to intentionally prevent or attempt to prevent a law enforcement officer, acting under color of his or her official authority, from effecting an arrest on said person or on another by (1) using or threatening to use physical force or violence against the said officer or another; (2) using any other means which creates a substantial risk of causing physical injury to the officer or another; or (3) employing means which require substantial force to overcome resistance to effecting the arrest; provided, this section shall apply only to those actions taken to resist arrest without the use of a deadly or dangerous weapon.

B. It is an affirmative defense to prosecution under this section if the officer involved was out of uniform and did not identify himself or herself as a law enforcement officer by showing his or her credentials to the person whose arrest was attempted. (Neb. Rev. Stat. §28-904)

### **SECTION 3-106: CONCEALED WEAPON**

Except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his or her person such as a revolver, pistol, Bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon. This section shall not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon which the offender is carrying is a handgun as defined in Neb. Rev. Stat. §69-2429. (Neb. Rev. Stat. §§17-556, 28-1202)

### **SECTION 3-107: DISCHARGE OF FIREARMS; DANGEROUS PROJECTILES**

A. It shall be unlawful for any person, except an officer of the law in the performance of his or her official duty, to fire or discharge any gun or pistol within the City.

B. It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle, BB gun, arrow from a bow, or other like instrument capable of launching a dangerous projectile therefrom at any time or under any circumstances within the City or within a one-half mile radius of the City where the projectile could reach the city limits.

C. Nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms or any instruments named in subsection (B) have written permission from the City Council. (Neb. Rev. Stat. §§17-207, 17-556) (Ord. No. 1247, 2/1/89)

**SECTION 3-108: STALKING**

A. Any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

B. For purposes of this section, the following definitions shall apply:

1. "Harass" means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose;
2. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning, contacting, or otherwise communicating with the person;
3. "Family or household member" means a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim or who has resided with the victim in the past, a person who had a child in common with the victim, other persons related to the victim by consanguinity or affinity, or any person presently involved in a dating relationship with the victim or who has been involved in a dating relationship with the victim. For purposes of this subdivision, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement but does not include a casual relationship or an ordinary association between persons in a business or social context.

(Neb. Rev. Stat. §§28-311.02, 28-311.03, 28-311.04)

**SECTION 3-109: CRIMINAL TRESPASS**

A. A person commits first degree criminal trespass if he or she:

1. Enters or secretly remains in any building or occupied structure or any separately secured or occupied portion thereof, knowing that he or she is not licensed or privileged to do so; or
2. Enters or remains in or on a public power infrastructure facility knowing that he or she does not have the consent of a person who has the right to give consent to be in or on the facility. For purposes of this section, "public power infrastructure facility" shall mean a power plant, an electrical station or substation, or any other facility which is used by a public power supplier as defined in Neb. Rev. Stat. §70-2103 to support the generation, transmission, or distribution of electricity and which is surrounded by a fence or is otherwise enclosed.

B. A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, he or she enters or remains in any place as to which notice against trespass is given by:

1. Actual communication to the actor; or
2. Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
3. Fencing or other enclosure manifestly designed to exclude intruders except as otherwise provided in subsection (A).

(Neb. Rev. Stat. §§28-520, 28-521)

**SECTION 3-110: PUBLIC INDECENCY; URINATION OR DEFECATION**

A. It shall be unlawful for any person 18 years of age or over to perform, procure, or assist any other person to perform in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

1. An act of sexual penetration as defined by Neb. Rev. Stat. §28-318(5);
2. An exposure of the genitals of the body done with intent to affront or alarm any person; or
3. A lewd fondling or caressing of the body of any other person of the same or opposite sex.

B. It shall be unlawful for any person within this city to urinate or defecate in public view.

(Neb. Rev. Stat. §28-806)

**SECTION 3-111: PUBLIC NUILITY; AIDING AND ABETTING**

A. It shall be unlawful for any person to intentionally expose his or her genitals, pubic area, or buttocks while employed in providing any service, product, or entertainment in any business or commercial establishment.

B. It shall be unlawful for anyone to aid, abet, assist, or direct another person to intentionally expose his or her genitals, pubic area, or buttocks while employed in providing any service, product, or entertainment in any business or commercial establishment.

**SECTION 3-112: SEXUAL PREDATORS AND OFFENDERS**

A. *Definitions.* For purposes of this ordinance:

1. "Child care facility" means a facility licensed pursuant to the Child Care



Licensing Act;

2. "Reside" means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;
3. "Residence" means a place where an individual sleeps, lives, or dwells, which may include more than one location and may be mobile or transitory;
4. "School" means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;
5. "Sexual predator" means an individual required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01 and who has victimized a person 18 years of age or younger.

*B. Residency Restrictions.* It is unlawful for any sex offender or sexual predator to reside within 500 feet from a school or child care facility. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

*C. Exceptions.* This ordinance shall not apply to a sex offender or sexual predator who (1) resides within a prison or correctional or treatment facility operated by the State or a political subdivision; (2) established a residence before July 1, 2006, and has not moved from that residence; or (3) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sex offender's or sexual predator's residence at that location.  
(Neb. Rev. Stat. §§29-4016, 29-4017)

### **SECTION 3-113: WINDOW PEEPING**

It shall be unlawful for any person to go upon the premises of another and look or peep into any window, door, or other opening in any building located thereon which is occupied as a place of abode.

### **SECTION 3-114: CRIMINAL MISCHIEF**

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger any person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$5,000.00. (Neb. Rev. Stat. §28-519)

### **SECTION 3-115: THEFT**

A. For purposes of this section the definitions found in Neb. Rev. Stat. §28-509

shall apply; and the offenses described in subsections (B) through (H) shall exist when the value of the thing involved is under \$500.00.

B. A person commits theft if he or she takes or exercises control over movable property of another with the intent to deprive him or her thereof. A person commits theft if he or she transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto. Except as provided for rental or lease of a motor vehicle in Neb. Rev. Stat. §28-511(4), it shall be presumed that a lessee's failure to return leased or rented movable property to the lessor after the expiration of a written lease or written rental agreement is done with intent to deprive if such lessee has been mailed notice by certified mail that such lease or rental agreement has expired and he or she has failed within ten days after such notice to return such property.

C. A person commits theft if he or she obtains property of another by deception as defined in Neb. Rev. Stat. §28-512.

D. A person commits theft if he or she obtains property of another by threatening to:

1. Inflict bodily injury on anyone or commit any other criminal offense;
2. Accuse anyone of a criminal offense;
3. Expose any secret tending to subject any person to hatred, contempt or ridicule or to impair his or her credit or business repute;
4. Take or withhold action as an official or cause an official to take or withhold action;
5. Bring about or continue to strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or
6. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

E. It is an affirmative defense to prosecution based on subdivisions (D)(2) through (4) herein that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was honestly claimed as restitution or indemnification for harm done in the circumstances to which such accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

F. A person who comes into control of property of another that he or she knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient commits theft if, with intent to deprive the

owner thereof, he or she fails to take reasonable measures to restore the property to a person entitled to have it.

G. A person commits theft if he or she obtains services, which he or she knows are available only for compensation, by deception or threat or by false token or other means to avoid payment for the service. Services include labor, professional service, telephone service, electric service, cable television service, or other public service, accommodation in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other movable property. When compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay gives rise to presumption that the service was obtained by deception as to intention to pay. Further, a person commits theft if, having control over the disposition of services of others to which he or she is not entitled, he or she diverts such services to his or her own benefit or to the benefit of another not entitled thereto.

H. A person commits theft if he or she receives, retains or disposes of stolen movable property of another knowing that it has been stolen, or believing that it has been stolen, unless the property is received, retained, or disposed with intention to restore it to the owner.

(Neb. Rev. Stat. §§28-511 through 28-515, 28-517, 28-518) (Ord. No. 1225, 10/14/87)

### **SECTION 3-116: SHOPLIFTING**

A. A person commits the crime of theft by shoplifting when, with the intent of appropriating merchandise for his or her own use without paying for the same or to deprive the owner of possession of such property or its retail value, in whole or in part, he or she does any of the following:

1. Conceals or takes possession of the goods or merchandise of any store or retail establishment;
2. Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;
3. Transfers the goods or merchandise of any store or retail establishment from one container to another;
4. Interchanges the label or price tag from one item of merchandise with a label or price tag from another item of merchandise; or
5. Causes the cash register or other sales recording device to reflect less than the retail price of the merchandise.

B. In any prosecution for theft by shoplifting, in order to allow the owner or owners of shoplifted property the use of such property pending criminal prosecutions, photographs of the shoplifted property may be accepted as prima facie evidence as to the

identity of the property. Such photograph shall be accompanied by a written statement containing the following:

1. A description of the property;
2. The name of the owner or owners of the property;
3. The time, date, and location where the shoplifting occurred;
4. The time and date the photograph was taken;
5. The name of the photographer; and
6. Verification by the arresting officer.

C. Prior to allowing the use of shoplifted property as provided in this section, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for its retention, which motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading.

(Neb. Rev. Stat. §28-511.01) (Ord. No. 674, 10/14/82)

### **SECTION 3-117: RECEIVING STOLEN PROPERTY**

A person commits theft if he receives, retains, or disposes of stolen movable property of another knowing that it has been stolen, or believing that it has been stolen, unless the property is received, retained, or disposed with intention to restore it to the owner.

(Neb. Rev. Stat. §28-517) (Ord. No. 1225, 10/14/87)

### **SECTION 3-118: THREATS; ASSAULT IN THE THIRD DEGREE**

It shall be unlawful for any person to intentionally, knowingly, or recklessly cause bodily injury to another person or threaten another in a menacing manner. It shall further be unlawful for any person to commit the above act in a fight or scuffle entered into by mutual consent. (Neb. Rev. Stat. §28-310) (Ord. No. 1225, 10/14/87)

### **SECTION 3-119: DISORDERLY CONDUCT**

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct himself in such a way as to breach the peace shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §§17-129, 17-556)

### **SECTION 3-120: UNLAWFUL ASSEMBLY; OBSTRUCTION OF PUBLIC WAY**

It shall be unlawful for three or more people to assemble together upon any sidewalk or street thereof in front of or adjacent to any store, shop, or other place of business so as to obstruct the public right-of-way along said street or sidewalk or entrance to said place of business or so as to obstruct or injure the carrying on of any lawful business in any of the places aforesaid. (Neb. Rev. Stat. §28-804)

**SECTION 3-121: DISTURBING AN ASSEMBLY**

It shall be unlawful for any person or persons to disturb, interrupt, or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. (Neb. Rev. Stat. §17-556) (Ord. No. 1225, 10/14/87)

**SECTION 3-122: DISTURBING THE PEACE**

It shall be unlawful for any person to intentionally disturb the peace and quiet of any person, family or neighborhood. (Neb. Rev. Stat. §§17-556, 28-1322)

**SECTION 3-123: RIOTING**

It shall be unlawful for any person or persons to congregate together for the purpose of breaching the peace by rioting or to induce others to riot through words, actions, or conduct; and whosoever shall congregate with others for the purpose of rioting or inducing others to riot shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §§17-556, 28-804)

**SECTION 3-124: EXCESSIVE NOISE**

It is hereby determined to be unlawful to operate industrial equipment, heavy machinery, jack hammers and other industrial equipment emitting loud noise or to race automobile engines within the City between the hours of 8:00 p.m. and 7:00 a.m. in such a manner as to disturb the comfort, repose, peace and quiet of residents of the City unless such activity has been approved in advance by the City Council.

**SECTION 3-125: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS**

It shall be unlawful for any person to operate any radio, tape player, compact disc player, stereophonic sound system, or similar device which reproduces or amplifies radio broadcasts or musical recordings in or upon any street, alley, or other public place in such a manner as to be audible to other persons more than 50 feet from the source. Persons operating such devices while participating in licensed or permitted activities, such as parades, shall not be deemed in violation of this section. (Neb. Rev. Stat. §17-556)

**SECTION 3-126: CURFEW**

It shall be unlawful for any minor under the age of 18 years to loiter, wander, or play in or upon any street, alley, park, or public place; on any railroad right-of-way; any place of public entertainment or recreation in the City; or in any motor vehicle located in any of the above places after the hour of 12:00 midnight to the hour of 5:00 a.m. of the following day unless accompanied by a parent or legal guardian. It shall be an affirmative defense to the above provisions that the said minor child at the time of the offense was participating in or going to or from a legitimate school- or church-sponsored activity or legitimate business employment activity. (Ord. No. 1490, 3/14/07)

**SECTION 3-127: ALCOHOL; MINOR IN POSSESSION**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to sell, dispense, consume or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways of the City or inside any vehicle while in or on any other place, including but not limited to the public streets, alleys, roads, or highways of the City or upon property owned by the City, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a *bona fide* religious rite, ritual, or ceremony or in his or her permanent place of residence. It shall be unlawful for any person under 21 years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle. (Neb. Rev. Stat. §53-180.02) (Ord. Nos. 1225, 10/14/87; 1232, 7/6/88)

**SECTION 3-128: ALCOHOL; MISREPRESENTATION BY MINOR**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age or by any other method in any tavern or other place where alcoholic liquor is sold. (Neb. Rev. Stat. §§53-180.01, 53-180.05) (Ord. Nos. 1225, 10/14/87; 1232, 7/6/88)

**SECTION 3-129: TOBACCO AND NICOTINE PRODUCTS; MINORS; VENDORS**

A. Any minor under the age of 21 years who shall possess or smoke cigarettes or cigars, use vapor products or alternative nicotine products, or use tobacco in any form whatever shall be guilty of an offense; provided, the possession by a person under the age of 21 years under the direct supervision of a parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited. Any minor charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, vapor products, alternative nicotine products, or tobacco.

B. Any person who shall sell, give, or furnish in any way any tobacco in any form whatever or any cigarettes or cigarette paper, vapor products, or alternative nicotine products to any minor under 21 years of age is guilty of an offense.

C. The term "cigarette" includes any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other material excepting tobacco. The term "tobacco products" shall mean:

1. Cigars,
2. Cheroots,
3. Stogies,
4. Periques,
5. Granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco,

6. Snuff or snuff flour,
7. Cavendish,
8. Plug and twist tobacco,
9. Fine cut and other chewing tobacco,
10. Shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco, and
11. Other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise or both for chewing and smoking, except that "tobacco products" shall not mean cigarettes as previously defined herein.

(Neb. Rev. Stat. §§28-1418, 28-1419)

### **SECTION 3-130: TOBACCO AND NICOTINE PRODUCTS; MISREPRESENTATION BY MINOR**

Any person under the age of 21 years who shall obtain cigars, tobacco, cigarettes, or cigarette material, vapor products, or alternative nicotine products from a licensee by representing that he or she is of the age of 21 years or over is guilty of an offense. (Neb. Rev. Stat. §28-1427)

### **SECTION 3-131: LITTERING**

A. It shall be unlawful for any person to willfully, maliciously, or negligently place or throw upon the premises of another any filth, garbage, leaves, papers, or other matter to the annoyance of the owner or occupant thereon.

B. Any person who deposits, throws, discards, scatters, or otherwise disposes of any litter, refuse, waste matter, or other thing on any public or private property or in any waters commits the offense of littering unless (1) such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or (2) the litter is placed in a receptacle or container installed on such property for such purpose.

C. Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering.

D. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1. "Litter" shall include all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the State but does not include wastes of primary processes of farming or manufacturing.
2. "Waste material" shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(Neb. Rev. Stat. §§17-123.01, 28-523)

**SECTION 3-132: NOTICES; ADVERTISEMENTS**

A. No person in the City shall fasten any poster or other advertising device in any way upon public or private property in the City unless legally authorized to do so.

B. It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove, or cover up the posted advertisement or bill of any person, firm, or corporation when said bill or advertisement is rightfully and lawfully posted and the same remains of value.

**SECTION 3-134: APPLIANCE OUTDOORS**

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other potentially dangerous appliance to be in the open and accessible to children, whether on private or public property, unless he or she shall first remove all doors or lids or securely lock the same to make such appliance reasonably safe. (Neb. Rev. Stat. §18-1720)

**SECTION 3-135: OBSTRUCTING PUBLIC WAYS**

It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to or inconsistent with the public use of the same. Further obstructions are provided in Chapter 6, Public Ways and Property, Article 1.

**SECTION 3-136: OBSTRUCTING WATER FLOW**

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe or hydrant.

**SECTION 3-137: INJURY TO PLANTS AND TREES**

It shall be unlawful for any person to purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any trees or their fruit or any shrub, plant, flower, or grass on any public or private property. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall obtain written permission from the City.

**SECTION 3-138: PARKS; INJURY TO PROPERTY; LITTERING**

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub; to injure or destroy any sodded or planted area; or to injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the city parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds. (Neb. Rev. Stat. §§17-563, 28-523)



**SECTION 3-139: PROHIBITED FENCES**

It shall be unlawful for any person to erect or cause to be erected and maintain any barbed wire or electric fence within the corporate limits where such fence abuts a public sidewalk, street, or alley.



## Article 2 – Dogs and Cats

### SECTION 3-201: DEFINITIONS

“Animal control authority” shall mean an entity authorized to enforce the animal control laws of the City.

“Animal control officer” shall mean any individual employed, appointed, or authorized by an animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

“Owner” shall mean any person who shall harbor or permit any dog or cat to remain for ten days or more in or about his or her house, store, or enclosure or to remain to be fed shall be deemed the owner and possessor of such dog or cat and shall be deemed to be liable for all penalties herein prescribed.

(Neb. Rev. Stat. §§54-606, 71-4401) (Am. Ord. No. 1129, 3/2/83)

### SECTION 3-202: RABIES VACCINATION

Every dog and cat shall be vaccinated against rabies and distemper\* pursuant to Nebraska law. Unvaccinated dogs and cats acquired or moved into the City must be vaccinated within 30 days unless under the age for initial vaccination. The provisions of this ordinance with respect to vaccination shall not apply to any dogs or cats owned by a person temporarily residing within this city for fewer than 30 days, any dog or cat brought into this city for show purposes, or any dog brought into this city for hunting purposes for a period of fewer than 30 days; such dogs and cats shall be kept under the strict supervision of the owner. (Neb. Rev. Stat. §71-4402)

### SECTION 3-203: LICENSING; RABIES CERTIFICATE; FEES

A. Any person who shall own, keep, or harbor a dog or cat over the age of three months within the City shall acquire a license for each such dog or cat annually by or before January 31 each year. If any person acquires a dog or cat after January 31, such person shall acquire the license within one calendar month after acquisition. A license for each dog or cat shall be issued by the city clerk upon the payment of the license fee which has been set by the City Council. All such fees shall be kept on file in the office of the city clerk, where they shall be available for public inspection.

B. Every service dog shall be licensed but no license tax shall be charged. Upon the retirement or discontinuance of the dog as a service animal, its owner shall be liable for the payment of a license tax as prescribed herein.

C. Said license shall not be transferable and no refund will be allowed in case of

death, sale, or other disposition of the licensed dog or cat. The owner shall state at the time the application is made and upon printed forms provided for such purpose his or her name and address and the name, breed, color, sex and whether such animal is neutered or spayed for each dog or cat owned and kept by such person. A certificate evidencing that the dog or cat has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown.

D. The City shall, in addition to the license tax imposed, collect from the licensee a state fee. The clerk shall retain part of the said fee and remit the balance to the state treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The amount collected shall be credited to the general fund along with the license fees.

E. It shall be the duty of the city clerk to issue tags of a suitable design that are different in appearance each year.

F. Upon the payment of the license fee, the city clerk shall issue to the owner of a dog or cat a license certificate and a metallic tag for each animal so licensed. The metallic tag shall be properly attached to the collar or harness of every dog and cat so licensed and shall entitle the owner to keep or harbor the said animal until December 31 following such licensing.

G. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the city clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee for each duplicate or new tag so issued. Such fee shall be set by the City Council and filed in the office of the city clerk for public inspection during office hours.

(Neb. Rev. Stat. §§17-526, 54-603, 71-4412) (Am. Ord. Nos. 1129, 3/2/83; 1234, 6/1/88; 1368, 12/6/95)

### **SECTION 3-204: COLLAR OR HARNESS; OWNER'S ID; LICENSE TAG; RUNNING AT LARGE**

A. It shall be the duty of the owner of every dog and cat to securely place upon the neck of such animal a good and sufficient collar or harness with a metallic plate attached which shall be plainly inscribed with the name of such owner. The city license tag shall also be attached.

B. It shall be unlawful for the owner of any dog or cat to allow such dog or cat to run at large at any time within the corporate limits of the City. It shall be the duty of the animal control officer to cause any dog or cat found to be running at large within the City to be taken up and impounded. If the animal control officer is unable to capture such dog or cat found running at large but able to ascertain who is the owner of the dog or cat, a citation shall be issued to such owner. Any dog or cat found "running at large" shall mean it was found off the premises of the owner and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other

suitable means of physical restraint. Any person who is convicted of violating this section, including failure to provide the ID tag showing owner's name, shall be fined in an amount set by the City Council and filed in the office of the city clerk for public inspection during office hours.

B. It shall be unlawful for any person to remove or cause to be removed the collar, harness, ID tag or license tag from any dog without the consent of the owner, keeper, or possessor thereof.

(Neb. Rev. Stat. §§17-526, 54-605) (Am. Ord. Nos. 1129, 3/2/83; 1429, 4/14/99)

### **SECTION 3-205: WRONGFUL LICENSING**

It shall be unlawful for the owner, keeper, or harbinger of any dog or cat to permit or allow such dog or cat to wear any license, metallic tag or other city identification than that issued by the city clerk for dogs and cats. (Neb. Rev. Stat. §17-526) (Am. Ord. No. 1129, 3/2/83)

### **SECTION 3-206: DAMAGE; LIABILITY OF OWNER**

It shall be unlawful for any person to allow a dog or cat owned, kept, or harbored by him or her or under his or her charge or control to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Neb. Rev. Stat. §§18-1720, 54-601, 54-602) (Am. Ord. No. 1129, 3/2/83)

### **SECTION 3-207: BARKING AND OFFENSIVE BEHAVIOR; COMPLAINT**

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood or person or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the City. Upon the written complaint of two or more affected persons from different households, filed within any 30-day period with the city clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section, the animal control officer shall investigate the complaint and, if in his or her opinion the situation warrants, shall notify the owner to silence and restrain such dog. The provisions of this section shall not be construed to apply to the city animal shelter. (Neb. Rev. Stat. §17-526)

### **SECTION 3-208: KILLING AND POISONING**

It shall be unlawful to kill or to administer or cause to be administered poison of any sort to a dog or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog or cat that is the property of another person or to place any poison or poisoned food where the same is accessible to a dog or cat; provided, this section shall not apply to the animal control officer acting within his or her power

and duty. (Neb. Rev. Stat. §28-1002, 28-553) (Am. Ord. No. 1129, 3/2/83)

### **SECTION 3-209: FEMALE IN SEASON**

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the City while in season. Any such female dog found running at large in violation of this section shall be declared to be a public nuisance and as such may be impounded or killed according to the provisions herein. (Neb. Rev. Stat. §17-526)

### **SECTION 3-210: FIGHTING DOGS**

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting or by any gesture or word to encourage the same to fight. (Neb. Rev. Stat. §17-526)

### **SECTION 3-211: RABIES SUSPECTED; IMPOUNDMENT**

Any dog suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions of this article which has bitten any person and caused an abrasion of the skin shall be seized and impounded under the supervision of the Board of Health for a period of no fewer than ten days. If, upon examination by a veterinarian, the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the dog shall be examined by a licensed veterinarian. If no signs of rabies are observed, the dog may be released from confinement. (Neb. Rev. Stat. §71-4406)

### **SECTION 3-212: POTENTIALLY DANGEROUS DOG; DETERMINATION OF; NOTICE; CERTIFICATE OF REGISTRATION**

If it is determined by the animal control officer that a dog is a potentially dangerous dog, the owner of the dog shall be notified in writing that it has been declared a potentially dangerous dog. The owner of such dog shall, within ten days of the date of the notice, apply for a certificate of registration from the animal control officer. Such certificate shall be issued if the owner presents sufficient evidence of a proper enclosure to confine such potentially dangerous dog and posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog.

### **SECTION 3-213: POTENTIALLY DANGEROUS DOG; RESTRAINT**

It is unlawful for an owner of a potentially dangerous dog to permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a responsible person. The muzzle shall be

made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

### **SECTION 3-214: DANGEROUS DOGS; DEFINITIONS**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

“Potentially dangerous dog” means any dog that, when unprovoked, inflicts bites on a human or a domestic animal on either public or private property or chases or approaches a person upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack; or any dog with a known propensity, tendency or disposition to attack without provocation, to cause injury, or to otherwise threaten the safety of humans or domestic animals.

“Dangerous dog” shall mean any dog that, according to the records of the animal control authority:

A. Has killed or inflicted injury on a human being without provocation on public or private property;

B. Has killed a domestic animal without provocation while off the owner’s property; or

C. Previously been found to be potentially dangerous, the owner having received notice of such finding and the dog or other animal again aggressively bites, attacks or endangers the safety of humans or domestic animals.

D. Notwithstanding the foregoing, a dog shall not be defined as a dangerous dog:

1. If the threat, any injury that is not a severe injury, or the damage was sustained by a person who (a) at the time was committing a willful trespass as defined in state statutes or any other tort upon the property of the owner of the dog; (b) at the time was tormenting, abusing, or assaulting the dog; (c) has in the past been observed or reported to have tormented or assaulted the dog; or (d) at the time was committing or attempting to commit a crime; or
2. If the dog is a trained dog assisting an officer engaged in law enforcement duties.

“Domestic animal” shall mean a cat, a dog, or livestock. “Livestock” includes buffalo, deer, antelope, fowl, and any other animal in any zoo, wildlife park, refuge, wildlife area, or nature center intended to be on exhibit.

“Injury” means any injury that results in bruised, broken or punctured skin, broken bones, or lacerations requiring sutures.

“Proper enclosure” of a potentially dangerous dog means that while on the owner's property it shall be securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall be completely enclosed with secure sides and top, shall be securely embedded into the ground, and shall also provide protection from the elements for the dog.

(Neb. Rev. Stat. §54-617)

### **SECTION 3-215: DANGEROUS DOG; PROHIBITED**

The owning, allowing, keeping or harboring of a dangerous dog or other dangerous animal within the corporate limits of the City is hereby prohibited.

### **SECTION 3-216: DANGEROUS DOGS; CONFINED; WARNING SIGN**

While unattended on the owner's property, a dangerous dog shall be securely confined in a humane manner indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least one foot. The pen or structure shall also protect the dog from the elements and shall be at least 10 feet from any property line of the owner. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. Each warning sign shall be no less than 10 inches by 12 inches and shall contain the words “Warning” and “Dangerous Animal” in high-contrast lettering at least 3 inches high on a black background. (Neb. Rev. Stat. §54-619)

### **SECTION 3-217: DANGEROUS DOGS; RESTRAINED**

No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the animal is restrained securely by a chain or leash. (Neb. Rev. Stat. §54-618)

### **SECTION 3-218: DANGEROUS DOGS; FAILURE TO COMPLY**

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated this article. In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner. (Neb. Rev. Stat. §54-620)



**SECTION 3-219: DANGEROUS DOGS; VIOLATION; PRIOR CONVICTION**

If a dangerous dog belonging to an owner with a prior conviction under this section attacks or bites a person or another domestic animal, the owner shall be guilty of a misdemeanor. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

**SECTION 3-220: DANGEROUS DOG OR POTENTIALLY DANGEROUS DOG; IMPOUNDMENT**

A. Any potentially dangerous dog which is (1) not validly registered under this section, (2) not maintained in the proper enclosure, (3) outside the dwelling of the owner or outside of the proper enclosure and not under physical restraint of the responsible person, or any dangerous dog or any dangerous animal shall be immediately confiscated by the animal control officer and placed in quarantine at the owner's cost.

B. The animal control officer shall notify the dog's owner by personal service or certified mail that such dog has been placed in quarantine. The dog shall be returned to the owner upon compliance with Section 3-222 herein. If the owner fails to comply within 15 days of being notified of the quarantine, the dog may be destroyed and the owner shall be responsible for the cost of impoundment and the cost of destroying it.

**SECTION 3-221: DANGEROUS DOG OR POTENTIALLY DANGEROUS DOG; VIOLATIONS; PENALTY; DESTRUCTION**

It shall be unlawful to violate any provision of Sections 3-212 through 3-220, and such violation shall be punished as provided hereafter. If the court finds that a dog is a potentially dangerous dog as defined in this article, the court may, in addition to the usual judgment of conviction, order that the dog be humanely killed. (Neb. Rev. Stat. §§54-617 through 54-624)

**SECTION 3-222: ANIMAL SHELTER**

A. The City may engage the services of a licensed veterinarian to maintain an animal shelter, which shall be safe, suitable and conveniently located for the impounding, keeping and destruction of animals. The said shelter shall be sanitary, ventilated and lighted.

B. Additionally, it shall be the duty of every person owning, keeping, or harboring a dog to provide adequate shelter for such dog at all times.  
(Ord. No. 1556, 12/14/22)

**SECTION 3-223: IMPOUNDMENT**

It shall be the duty of the code enforcement officer to capture, secure, and remove in a humane manner to the city animal shelter any dog or cat violating any of the provisions

of this article. Notice of impoundment of any dog or cat, including any significant marks or identification, shall be posted at the office of the city clerk as public notification of such impoundment; provided, if the owner of the animal is known, the clerk may also attempt to personally notify him or her of the impoundment. The owner may reclaim his or her dog or cat by contacting the clerk for information. (Neb. Rev. Stat. §§17-548, 71-4408) (Am. Ord. Nos. 1027, 11/9/78; 1129, 3/2/83; 1234, 6/1/88; 1429, 4/14/99)

### **SECTION 3-224: IMPOUNDING; FEES FOR DESTROYED ANIMALS**

If the animal is disposed of and the owner of the animal is known to the City, then the owner shall be required to pay the fees specified herein. In addition, he or she shall be required to pay the disposal fees charged to the City by the veterinarian. All such fees shall be due ten days after a billing therefor is mailed to the owner by the city clerk. (Ord. No. 1234, 6/1/88)

### **SECTION 3-225: INTERFERENCE WITH ANIMAL CONTROL**

It shall be unlawful for any person to hinder, delay, or interfere with any animal control officer who is performing any duty enjoined upon him or her by the provisions of this article or to break open or in any manner directly or indirectly aid, counsel, or advise breaking into the animal shelter or any vehicle used for the collecting or conveying of dogs to the shelter. (Neb. Rev. Stat. §28-906)

## Article 3 – Animals Generally

### SECTION 3-301: POULTRY; PERMIT REQUIREMENTS; RESTRICTIONS

A. It shall be unlawful for any person to keep or maintain within the corporate limits any turkeys, ducks, geese, or any other poultry not classified as chickens (*Gallus gallus domesticus*).

B. It shall be unlawful for any person to own, keep, harbor, or have under their care, custody or control any cock or rooster chicken two months of age or older. The unlawful keeping or harboring of cocks or roosters is hereby declared to be a public nuisance.

C. It shall be unlawful for any person to own, keep, harbor, or have under their care, custody or control any chicken without a valid annual permit issued by the City. The fee for an annual chicken permit shall be established by the City through the master fee schedule. No permit shall be assignable or transferable either as to permittee, location or chickens.

D. The requirements for the issuance of a permit by the City to own, keep, harbor, or have custody or control over a chicken are:

1. No more than six chickens shall be permitted on any lot.
2. The chickens must be housed in a chicken facility and run approved by the City, such chicken facility and run to be maintained in compliance with all of the City's requirements as a condition of the permit. The requirements for the chicken facility and run include:
  - a. The chicken facility and run must be in good repair, capable of being maintained in a clean and sanitary condition, free of vermin, obnoxious smells and substances;
  - b. The chicken facility and run shall not constitute a nuisance or disturb neighboring residents due to noise, odor or threats to public health;
  - c. The chicken facility and run shall prevent chickens from roaming at large;
  - d. The run shall be attached to the coop and constructed to include metal wire fencing anchored to the ground and a fully-enclosed roof or similar enclosure to prevent escape by chickens and entry by predators and general members of the public;
  - e. The chicken facility shall be constructed of durable material and the flooring of any chicken facility within the coop shall be of a waterproof hard-surface non-porous material (chicken run area shall not require

hard-surface flooring);

- f. The chicken facility shall provide not less than 3 cubic feet per occupant chicken, and the run shall provide not more than 5 cubic feet per occupant chicken;
  - g. The chicken facility and run shall not be located in any front yard of a property and must be located at least 20 feet from any neighboring residence; and
  - h. The chicken facility and run shall comply with all applicable city building and zoning codes, including compliance with setbacks, and must be consistent with the requirements of any land use regulation.
3. Offal, manure and waste material shall not be permitted to accumulate nor be confined in any manner that is conducive to the breeding or attraction of flies, mosquitoes or other noxious insects or in any manner that endangers the public health or safety. All permit applicants must provide a statement of the method in which offal, manure and waste material accumulating from the chickens will be sanitarily disposed of at least once every seven days.
4. All grain, feed and feedstuffs intended for use as food for chickens shall be kept in tightly-fitted containers constructed to keep out vermin and wild animals.

(Ord. No. 1551, 10/12/22)

**SECTION 3-302: ANIMALS; PERMIT REQUIRED**

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine or other livestock, except as provided in this article. (Neb. Rev. Stat. §17-547) (Am. Ord. No. 1227, 12/8/87)

**SECTION 3-303: PERMITS; PROCEDURE FOR ISSUANCE**

A. The owner of any horse, sheep, or goat may keep such animal within the corporate limits upon issuance or renewal of a permit by the City Council as provided in this article. The application for issuance or renewal of such permit shall be submitted by the owner on a form provided by the city clerk containing all information necessary to show that all requirements of this article have been satisfied. The permit application shall contain at least the following information:

- 1. The owner's name, address and telephone number;
- 2. The type and numbers of animals proposed to be kept by the owner;
- 3. The legal description and name(s) of the owner of the property on which

the animal(s) will be kept;

4. A plat map showing the specific area to which such animal(s) will be confined if less than the entire property, showing the location on the property of any enclosures and restraints required by this article and showing distances relative thereto;
5. The written consent of all owners and occupants of adjoining real estate and all owners and occupants of real estate of which any portion is within 250 feet of any boundary of the property on which such animal(s) are to be located; provided, for purposes of this section, real estate shall be considered as "adjoining" only when any part thereof touches, or corners with, such other lot or tract or as separated therefrom only by a street or alley which would touch such other lot, tract or corner therewith if such street or alley did not intervene; and,
6. The length of time for which such permit is requested, not exceeding four years and ending on December 31 of such fourth year.

B. The application shall be accompanied by a fee as set by the City Council by resolution and kept on file in the office of the city clerk for public inspection. Such fee shall not be refundable under any circumstances, whether or not such permit is issued.

C. Upon receipt of the application, the city clerk shall refer the application to the Planning Commission, which shall determine whether the proposed location is consistent with the applicable zoning regulations and the type and character of the neighborhood.

D. The Planning Commission shall forward its recommendation with regard to such application, together with any special conditions or special characteristics of the proposed location, to the City Council for consideration at its next regular meeting.

E. The council may adopt or reject the recommendation of the Planning Commission in whole or in part and may impose any other conditions for issuance of the permit it deems necessary for the protection of the public health and safety. The term of the permit shall be set by the council at the time of authorization of issuance and may be less than the length requested in the application but shall not extend beyond December 31 of the fourth year of such permit.

F. If the City Council authorizes issuance thereof, the city clerk shall proceed to issue such permit for the term and upon such conditions as determined by the council and no additional fee shall be required for such issuance.

G. Any permit will be subject to renewal at the expiration of its term and such renewal shall have the same requirements as a new permit. The renewal shall be applied for and obtained within six months prior to the expiration date, which shall not be

extended if such renewal has not been obtained prior thereto.

H. Permits are nontransferable from one location to another or from one owner of animals to another, whether through change of ownership of real estate or otherwise. (Ord. Nos. 1177, 5/1/85; 1227, 12/8/87)

**SECTION 3-304: PERMITS; ENCLOSURES; DISTANCE REQUIREMENTS**

All enclosures and restraints used to confine animals for which a permit is issued pursuant to this article shall be no less than 150 feet from any residence other than the residence of the owner of said enclosure. (Ord. No. 1227, 12/8/87)

**SECTION 3-305: PERMITS; LIMITS ON NUMBER AND TYPES OF ANIMALS**

No permit shall be issued for more than the number of animals specified below over four months of age where said animals are of the following species: horses, three; sheep, six; and goats, six. No permit shall be issued for more than one type of animal for which such permits may be issued. No more than one permit shall be issued for any particular location. (Ord. No. 1227, 12/8/87)

**SECTION 3-306: PERMITS; AREA REQUIREMENTS**

A. No permit shall be issued unless the owner shall provide an enclosure that has, as a minimum, the following area:

Horses	One acre for each animal
Sheep	One-half acre for each animal
Goats	One-half acre for each animal

B. The area to be utilized may consist of one or more platted lots, unplatted tracts or subdivisions of either or any combination thereof; provided, the entire area of real estate proposed for such use shall be in common ownership and no part thereof separated from any other part by any street, alley in actual use or by any tract of real estate not in such common ownership; and provided further, the total amount of land under such common ownership equals or exceeds the aggregate amount required by this section considering the number of animals so authorized by such permit. (Ord. No. 1227, 12/8/87)

**SECTION 3-307: PERMITS; SANITATION REQUIREMENTS**

No owner of any animal for which a permit is required by this article shall fail to keep the shelters and enclosures on his or her property in a sanitary condition. At a minimum, owners shall not fail to:

A. Remove or dispose of in a sanitary manner the bedding, offal manure, and waste materials accumulating in a shelter from such animals at least once every 30 days; and

B. Clean and disinfect said shelters and enclosures so as to prevent the breeding of flies and insects and the emission of deleterious and offensive odors. (Ord. No. 1227, 12/8/87)

### **SECTION 3-308: PERMITS; FOOD, WATER, HEALTH CARE; OWNER'S DUTY**

No owner of any animal for which a permit is required by this article shall fail to provide food and water for his or her animal(s) or fail to seek veterinary care for any such animal(s) that are sick or injured. (Ord. No. 1227, 12/8/87)

### **SECTION 3-309: PERMITS; REVOCATION**

The permit of any owner regulated by this article who fails to comply with any term or condition of the permit issued or of the provisions of this article may be revoked by the City Council after a hearing held upon at least ten days' written notice mailed to the address of the owner set forth in the permit application by certified U. S. Mail, which notice shall be deemed as given when mailed. Upon revocation, all animals regulated under this article shall be removed from the City within three days and if the owner shall fail or refuse to remove such animals within such time, such owner shall be deemed to be maintaining a nuisance, the abatement of which shall be the forfeiture of the animal or animals in violation. The procedure for abatement of nuisances set forth in Article 4 of this chapter shall be followed. (Ord. No. 1227, 12/8/87)

### **SECTION 3-310: RUNNING AT LARGE**

It shall be unlawful for the owner, keeper, or harbinger of any animal or any person having the charge, custody, or control thereof to permit a horse, sheep, or goat as allowed by this article to run at large on any of the public ways and property or upon the private property of another. (Neb. Rev. Stat. §17-547)

### **SECTION 3-311: WILD ANIMALS**

No wild animals may be kept within the corporate limits except such animals kept for exhibition purposes by circuses and educational institutions. As used in this section, the term "wild" relates to any animals that, whether or not raised in captivity, normally are found in a wild state including but not limited to:

A. Any game animals; fur-bearing animals including muskrats, raccoons, opossums, and otters; game birds, upland game birds, and raptors as defined in Neb. Rev. Stat. §37-101;

B. Any non-game wildlife in need of conservation as determined by the Game & Parks Commission under Neb. Rev. Stat. §37-430 *et seq.*;

C. Any animal for which a game fancier or pet permit or a commercial game or fur farmer permit is required pursuant to Neb. Rev. Stat. §§37-714 and 37-715;

D. Any poisonous reptile or arthropod; and

E. Any such other species of wild animal which may be injurious to humans.  
(Ord. No. 1326, 8/11/93)

**SECTION 3-312: CAPTURE IMPOSSIBLE**

The animal control officer shall have the authority to kill any animals showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved. (Neb. Rev. Stat. §§17-526, 54-605, 71-4406) (Am. Ord. No. 1129, 3/2/83)



## Article 4 – Nuisances

(Ord. No. 1525, 12/11/13)

### SECTION 3-401: PUBLIC NUISANCES PROHIBITED

It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the City to keep such real estate free of public nuisances. (Neb. Rev. Stat. §§17-207, 18-1720, 28-1321)

### SECTION 3-402: GENERALLY DEFINED

A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing 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, parkway, square, street or highway in the City,
  - 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
  - G. Tends to depreciate the value of the property of others.
- (Neb. Rev. Stat. §18-1720)

### SECTION 3-403: SPECIFICALLY DEFINED

“Nuisance” includes but is not limited to the maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things:

- A. Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, vegetable matter or the whole or any part of any dead animal, fish or fowl.
- B. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies, rats or other insects and rodents or which are foul or malodorous.
- C. Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.

D. Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the City.

E. Dead animals, or dead animals buried within the corporate limits.

F. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste, vegetable, or animal matter in any quantity. Nothing herein contained shall prevent the temporary retention of waste in receptacles nor the dumping of non-putrefying waste in a place and manner approved by the City.

G. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all trash or abandoned material, unless the same is kept in covered bins or galvanized iron receptacles.

H. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, appliances, scrap iron, tin, or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies, rats, or other insects or rodents may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity.

I. Any buildings or structures which have any or all of the defects defined at Section 3-501 hereafter.

J. Debris from burned or damaged buildings, whether created by consensual burning or demolition or whether occurring due to fire or age.

K. Stagnant water permitted or maintained on any lot or piece of ground; water pollution as provided in Chapter 7, Article 2, Section 7-218.

L. Air pollution, which includes discharge into the open air of dust, fumes, gases, mist, odors, smoke, or any combination thereof; the standards for air pollution established or adopted by the State shall be presumptive evidence as to when the air is deemed to be polluted.

M. 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.

N. Any vehicle which is not properly registered or is inoperable, wrecked, junked, or partially dismantled and remaining longer than 30 days on private property; this does not apply to a vehicle in an enclosed building, a vehicle on the premises of a business

enterprise operated in a lawful place and manner, when necessary to the lawful operation of such business enterprise (such as a licensed salvage dealer, motor vehicle dealer or farm implement dealer), or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, and so long as the premises which said vehicle is located is not a nuisance and is maintained in a healthful and safe condition.

O. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.

P. Dead, diseased, or insect-infested trees as provided in Chapter 2, Article 5 (Tree Board), Sections 2-518 through 2-520.

Q. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens, or any other place, building, or enclosure in which animals or fowl of any kind are confined or on which are stored tankage or any other animal or vegetable matter or on which any animal or vegetable matter, including grain, is being processed, when said places in which said animals are confined or said premises on which said vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom.

R. Maintenance of weeds, grasses or worthless vegetation 8 inches or more in height. The owner or occupant of any lot or piece of ground within the City shall keep his or her lot or piece of ground and the adjoining street and alleys free of any growth of 8 inches or more in height of weeds, grasses, or worthless vegetation. Weeds shall include but not be limited to bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant, and ragweed.

S. All other things specifically designated as nuisances elsewhere in this code. (Neb. Rev. Stat. §§17-563, 18-1720)

### **SECTION 3-404: NOTICE PROCEDURE; ABATEMENT**

A. Whenever the code enforcement officer determines that any nuisance, as defined herein, is found on any property, the following abatement procedure shall be followed:

1. The code enforcement officer shall document the nuisance by photographing the same. At the next regular meeting of the City Council or a special meeting called to consider such matter, the photographs shall be submitted to the council for action. If the City Council determines that a nuisance exists and so determines by resolution, it shall direct the city clerk to give notice of such council action and issue a notice to abate such nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if any, by personal service which shall be made by the city

clerk or code enforcement officer and evidenced by his or her certificate of delivery. If notice by personal service is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the City or by conspicuously posting the notice on the lot or property upon which the nuisance is to be abated or removed. Such notice shall contain a description of the nuisance, a copy of this article on nuisances, instructions on abatement of the nuisance, time in which such abatement shall take place, and possible penalties for failure to abate.

2. Within five business days after receipt of such notice, the owner, agent, or occupant of the lot or piece of ground may request a hearing with the City to appeal the resolution determining a nuisance by filing a written appeal with the office of the city clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the mayor as hearing officer. The mayor shall render a decision on the appeal within five business days after the conclusion of the hearing. The hearing shall be conducted informally and the formal rules of evidence shall not apply but either party may appear with an attorney and may request that the hearing be recorded for appeal purposes. Any decision rendered by the mayor may be appealed to the District Court. If no appeal is taken within ten days of the mayor's decision, the owner, agent, or occupant shall promptly comply with the notice to abate. If abatement is not completed within 20 days of the mayor's decision and no appeal is taken, the City shall proceed pursuant to subsections (3) and (4) below or to subsections (B)(1) and (2) as set forth below.
3. Within ten days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to appeal the decision of the mayor and fails to comply with the order to abate the nuisance, the City shall again photograph the nuisance to document that abatement has not occurred.
4. If abatement has not occurred within the time prescribed, the code enforcement officer may deliver the original photographs, a copy of the delivered notice to abate, the certificate of delivery or acknowledged return receipt of the notice, and the photographs taken subsequent to the time to abate has elapsed to the prosecuting attorney for the City and request that charges be filed against the owner or occupant of the premises for maintenance of a nuisance.

B. In the alternative, the City may cause the weeds to be mowed or the nuisance to be corrected or removed. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such 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 benefited 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.

(Neb. Rev. Stat. §§17-563, 18-1720)

### **SECTION 3-405: JURISDICTION**

The mayor and council members are directed to enforce this municipal code against all nuisances. The jurisdiction of the mayor, council members, and court shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the City within one mile thereof and all territory within the corporate limits. (Neb. Rev. Stat. §18-1720)

### **SECTION 3-406: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL**

In cases of appeal from an action of the City Council condemning real property as a nuisance or as dangerous under the police powers of the City, the owners of the adjoining property may intervene in the action at any time before trial. (Neb. Rev. Stat. §19-710)



## **Article 5 – Dangerous and Vacant Buildings**

### **SECTION 3-501: DANGEROUS BUILDINGS; DETERMINATION; AND DEFINITIONS**

Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:

A. Those having walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;

B. Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;

C. Those with improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

D. Those damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants of the people of the City;

E. Those which have become dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;

F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein;

G. Those having inadequate facilities for egress in the case of fire or panic, or those having insufficient stairways, elevators, fire escapes or other means of communication;

H. Those having parts thereof which are so attached that they may fall and injure persons or property;

I. Those that are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of the City because of their condition;

J. Those having been inspected by the County Health Department or a professional engineer appointed by the City which are, after inspection, deemed to be in violation of any provision of the health department rules and regulations or which are structurally unsafe or unsound as found by the inspection of the professional engineer;

K. Those existing in violation of any provision of this article, any provision of the Fire Code, any provision of the county health rules and regulations or other applicable provisions of city ordinances, including but not limited to the Building Code adopted by the City.

(Neb. Rev. Stat. §18-1720)

### **SECTION 3-502: DANGEROUS BUILDINGS; BUILDING INSPECTOR**

The building inspector, as provided in Chapter 9, Section 9-101, shall, at the direction of the City Council:

A. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in a dangerous or unsafe manner;

B. Inspect any building or structure within the jurisdictional area of the City for the purpose of determining whether any conditions exist which render such place a dangerous or unsafe building or structure within the terms of this article;

C. Report to the City Council the results of the inspection;

D. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.

### **SECTION 3-503: DANGEROUS BUILDINGS; STANDARDS**

In the event that it is determined that any building or structure is unsafe or dangerous the following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated or demolished:

A. If the unsafe or dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.

B. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired. It shall be unlawful to repair or reconstruct any building now existing or located within the City where from any cause the building becomes out of repair to the extent of one-third of its value, exclusive of foundation. It shall not be repaired or rebuilt but shall be taken down and removed within 30 days after notice to do so from the City. It shall be unlawful for any person, company or corporation to repair or rebuild any such building or structure or for any owner thereof to fail to remove any such damaged building or structure within the 30-day period provided above without written consent of the City Council.

C. In any case where an unsafe or dangerous building or structure cannot be



repaired so that it will no longer exist in violation of the terms or provisions of this article, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of a city ordinance or state statute, it shall be demolished.  
(Neb. Rev. Stat. §§17-136, 15-905, 18-2107)

### **SECTION 3-504: DANGEROUS BUILDINGS; UNLAWFUL MAINTENANCE**

It is hereby determined unlawful to maintain a dangerous building within the corporate limits of the City or within its zoning jurisdiction. (Neb. Rev. Stat. §28-1321)

### **SECTION 3-505: DANGEROUS BUILDINGS; NUISANCE; PROCEDURE**

If the specially designated building inspector or his representatives or professional engineer finds that a building or structure is unsafe or dangerous and a nuisance, the City Council shall:

A. Notify the owner, occupant, lessee, mortgagee, agent or other persons having an interest in the building or structure that it has been found to be an unsafe or dangerous building; the notice will indicate whether the owner must vacate, repair or demolish the building or structure;

B. Set forth in the notice a description of the building or structure deemed unsafe or dangerous, accompanied by a statement of the particulars which make the building or structure unsafe or dangerous and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable;

C. Direct a city employee to place a sign on the building or structure found to be unsafe or dangerous on its exterior near the main entrance which shall set forth that the building or structure is unsafe or dangerous for occupancy and use.

D. File a copy of such determination or resolution in the office of the register of deeds of the County to be recorded. No fee shall be charged for such recording or for the release of such recording.  
(Neb. Rev. Stat. §18-1722.01)

### **SECTION 3-506: DANGEROUS BUILDINGS; FAILURE TO COMPLY**

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure shall fail, neglect or refuse to comply with the notice by or on behalf of the City to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, and fails to request a hearing on such determination, the City may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the City Council, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be

collected in the manner provided for special assessments under Nebraska statutes. (Neb. Rev. Stat. §18-1722)

### **SECTION 3-507: DANGEROUS BUILDINGS; DISPUTES**

A. In the event that the owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure disagrees with or disputes the information contained in the notice, such person shall notify the city clerk with a written statement that sets forth the reasons for the disagreement or dispute and the relief requested. This written request shall be made within 14 days of mailing of the notice as provided herein. If written notice is received by the city clerk within 14 days of mailing or delivery of notice, a hearing shall be held before the City Council, either at a special meeting or at a regularly scheduled monthly meeting. The clerk shall notify the person requesting the hearing, in writing, of the time, place and date of such hearing.

B. The hearing before the City Council shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and its decision shall be based on the evidence presented at the hearing. The person requesting the hearing may be represented by legal counsel or other representative, may present witnesses and offer evidence and may examine and copy, at his or her own expense, and not less than three business days before the hearing, the records of the City regarding the inspection and notice. The City Council need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the council shall be final unless appealed. Failure of the person to attend the hearing shall relieve the council of any further procedures before action is taken as set forth in a notice.

### **SECTION 3-508: DANGEROUS BUILDINGS; APPEAL**

Any person aggrieved by the decision of the City Council may appeal the decision to the District Court. This appeal shall and must be taken within 30 days of the pronouncement of the council's decision.

### **SECTION 3-509: DANGEROUS BUILDINGS; IMMEDIATE HAZARD**

In the event the building constitutes an immediate hazard to the life or safety of any persons and must be demolished to protect their health or safety, the specially appointed building inspector or professional engineer designated by the City Council shall report such facts to the council. Upon receipt of such report the City, by and through the council, may immediately contract for the immediate demolition of the unsafe or dangerous building without requiring bids. The cost of such emergency vacation and demolition of unsafe or dangerous buildings or structures shall be levied, equalized, and assessed, as are other special assessments.

### **SECTION 3-510: VACANT BUILDINGS; DEFINITIONS**

For purposes of this ordinance:

A. "Commercial District" or "downtown" means the area of the City consisting of both sides of Main Street extending from South Street to 4th Street and both sides of Highway 20 (4th Street) from Wilson Street to Hunt Street; and all commercially zoned areas located within the corporate limits of the City.

B. "Evidence of vacancy" means any condition or circumstance that, on its own or in combination with other conditions or circumstances, would lead a reasonable person to believe that a residential building or commercial building is vacant. Such conditions or circumstances may include but are not limited to:

1. Overgrown or dead vegetation, including grass, shrubbery, and other plantings;
2. An accumulation of abandoned personal property, trash, or other waste;
3. Visible deterioration or lack of maintenance of any building or structure on the property; or
4. Graffiti or other defacement of any building or structure on the property.

C. "Owner" means the person or persons shown to be the owner or owners of record on the records of the register of deeds;

D. "Residential building" means a house, a condominium, a townhouse, an apartment unit or building, or a trailer house; and

E. "Vacant" means that a residential building or commercial building exhibits evidence of vacancy. Storage does not constitute occupancy unless authorized by the zoning ordinance of the City.

(Ord. No. 1548, 8/11/21)

### **SECTION 3-511: VACANT BUILDINGS; REGISTRATION**

A. The City shall maintain a vacant property registration database and the city building inspector is designated as program administrator. The program administrator may utilize additional city employees as may be necessary to administer the program with the approval of the employees' department heads and direct supervisors overseeing the employees' departments.

B. The owner of a vacant building, including all occupancy spaces within a given building, shall register the building with the City if the property has been vacant for 180 days or longer. A vacant property registration form shall be in either paper or electronic form and the following information shall be required:

1. The name, street address, mailing address, telephone number, and, if applicable, the facsimile number and email address of the property owner and his or her agent;
2. The street address and parcel identification number of the vacant property;
3. The transfer date of the instrument conveying the property to the owner;
4. The date on which the property became vacant; and

5. A plan for occupancy of the property or space.  
(Ord. No. 1548, 8/11/21)

**SECTION 3-512: VACANT BUILDINGS; FEES**

A. A vacant property registration fee shall be set by the City Council by resolution and kept on file in the office of the city clerk. The said fee shall be due and payable 180 days after initial registration of the vacant property pursuant to this section or 360 days after the property becomes vacant, whichever is sooner.

B. Supplemental registration fees at intervals every six months thereafter shall be due for as long as the property remains on the vacant property registration database. The supplemental registration fees shall be not more than double the previous fee amount, with a maximum supplemental registration fee of ten times the initial registration fee amount. Subject to these limitations, the supplemental registration fees may be adopted by resolution of the City Council and kept on file in the office of the city clerk.

C. A subsequent owner or owners of property subject to this ordinance will assume the obligations of the previous owner or owners.

D. Registration fees are refundable to the payor for the year preceding the date on which the property is no longer vacant.  
(Ord. No. 1548, 8/11/21)

**SECTION 3-513: VACANT BUILDINGS; EXEMPTIONS**

The following vacant properties shall be exempt from registration and fee requirements:

A. A vacant property that is advertised in good faith for sale or lease shall be exempt from registration and fee requirements. Any building advertised for sale at a price not exceeding 125% of the assessed valuation as documented by the Brown County Assessor's Office shall be deemed to be advertised in good faith for sale. Any building advertised for lease at an amount of rent comparable to other comparable buildings in the Downtown District shall be deemed to be advertised in good faith for lease. The burden of proving this exemption shall be on the owner and the standard of proof shall be by clear and convincing evidence;

B. A vacant property which is only considered to be a seasonal residence or where the owner is temporarily absent but who has demonstrated his or her intent to return;

C. A vacant property under construction or renovation pursuant to a validly issued building permit or plan of renovation submitted to and approved by the program administrator;

D. A vacant property which is subject to ongoing divorce, probate, or estate proceedings; and

E. A vacant property which is owned by the federal government, the State of Nebraska, or any political subdivision thereof.  
(Ord. No. 1548, 8/11/21)

### **SECTION 3-514: VACANT BUILDINGS; INSPECTIONS**

The program administrator or his or her designee may inspect the interior and exterior of the vacant property upon registration and at one-year intervals thereafter for so long as the property remains on the vacant property registration database. A report will be provided to the owner noting code deficiencies, if any. The owner will be required to make necessary repairs based upon a reasonable timetable to allow the property to become occupied. Follow-up inspections will be made by the city building inspector or his or her designee to ensure that repairs have been timely completed. (Ord. No. 1548, 8/11/21)

### **SECTION 3-515: VACANT BUILDINGS; EMERGENCY REPAIRS**

Where any unsafe building or structure poses an immediate danger to the health, safety, or general welfare of any person or persons and the owner fails to remedy the situation in a reasonable time after notice by the City to do so, the City may summarily repair such building or structure. (Ord. No. 1548, 8/11/21)

### **SECTION 3-516: VACANT BUILDINGS; COSTS OF EMERGENCY REPAIRS; HEARING; APPEAL**

A. Upon receiving the notice to repair the building, the owner, within the time stipulated, may in writing to the city clerk request a hearing before the Board of Health to present reasons why the building should not be repaired. The Board of Health shall grant such hearing within ten days from the date of receiving the request.

B. A written notice of the Board of Health's decision following the hearing shall be sent to the property owner by certified mail. If the Board of Health rejects the appeal, the owner shall have ten days from the sending of the decision to begin repair. If after the ten-day period the owner has not begun work, the City shall proceed to cause such work to be done; provided, the property owner may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the City shall be stayed.

C. In case the owner of any building or structure shall fail, neglect or refuse to comply with notice by or on behalf of the City to repair or rehabilitate a building or structure which is unsafe, the City may proceed with the work specified in the notice to the property owner.

D. A statement of the cost of such work, including the cost of advertising and publishing of notices, shall be transmitted to the City Council, which is authorized to levy the costs 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.  
(Ord. No. 1548, 8/11/21)

### **SECTION 3-517: VACANT BUILDINGS; PENALTIES**

Any person violating any provision of this ordinance or providing false information to the City shall be fined for failure to comply as provided in Section 3-601 (Penal Provision). The City may enforce the collection of vacant property registration fees and/or fines by civil and/or criminal action in any court of competent jurisdiction. Unpaid vacant property registration fees and unpaid fines for any violation of this ordinance shall become liens on the applicable property upon the recording of a notice of such liens in the Brown County Register of Deeds Office. The liens created under this section shall be subordinate to all liens on the applicable property recorded prior to the time the notice of such liens under this section are recorded. (Ord. No. 1548, 8/11/21)

### **SECTION 3-518: VACANT BUILDINGS; ALTERNATIVE PROCEDURES**

The provisions of this ordinance shall be supplemental to any other provisions of this code and to state laws relating to vacant property. Nothing in this ordinance shall be deemed to abolish or impair existing remedies of the City authorized by this code or by state law. (Ord. No. 1548, 8/11/21)

### **SECTION 3-519: VACANT BUILDINGS; DUE PROCESS**

Owners shall have the right to prior notice and to appeal adverse decisions of the City or the program administrator. Such notice shall be sent by certified mail to the registered owner at the address maintained in the Brown County Register of Deeds Office at least ten days prior to such adverse decision. All appeals shall proceed under Section 3-508 (Appeal) and related sections of this code. (Ord. No. 1548, 8/11/21)

## **Article 6 – Penal Provisions**

### **SECTION 3-601: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

### **SECTION 3-602: ABATEMENT OF NUISANCE**

Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Neb. Rev. Stat. §§18-1720, 18-1722)