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PARKS**§ 90.01 OPERATION AND FUNDING.**

The municipality owns and operates the municipal parks and other recreational areas through the Park and Cemetery Board. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the municipal park, may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the corporate limits. The revenue from the tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer. The Park and Cemetery Board shall have the authority to adopt rules and regulations for the efficient management of the municipal parks and other recreational areas of the municipality. The Park and Cemetery Board shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the City Council prior to the contractual agreement.

(1986 Code, § 3-701)

Statutory reference:

Recreation centers and areas generally, see Neb. RS 17-948 through 17-952

§ 90.02 INJURY TO PROPERTY.

It shall be unlawful for any person maliciously or willfully to cut down, injure, or destroy any tree, plant, or shrub in any municipal park. It shall be unlawful for any person to injure or destroy any sodded or planted area or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the municipal parks and recreational areas. No person shall commit any waste on or litter the municipal parks or other public grounds.

(1986 Code, § 3-702) Penalty, see § 10.99

Statutory reference:

Littering of public and private property, see Neb. RS 28-523

§ 90.03 HOURS ESTABLISHED; CLOSING.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PARKS. Includes any park, playground, and swimming pool, or other park or recreational use or facility within or without the limits of the city, which is under the city ownership or control.

(B) Except as hereinafter provided, all parks shall be opened daily to the public during the hours of 6:00 a.m. to 10:00 p.m. It shall be unlawful for any person to occupy or be present in any park during any hours during which that park is not opened to the public.

(C) Persons utilizing the Lincoln Park public areas for camping shall be exempt from the foregoing closing hours.

(D) The City Council or the Park and Cemetery Board may, upon request by any resident of the city, grant exceptions to the normal park closing hours for special activities, or where special circumstances arise.

(E) (1) Any park may be declared closed to the public by the Mayor or the Park and Cemetery Board at any time or at regular or stated intervals when necessary for:

- (a) The care and maintenance of the parks;
- (b) The health, safety, and welfare of the public; or
- (c) The protection or preservation of park property.

(2) When so closed, the Park and Cemetery Board shall cause notice to be posted at the entrance of that park to notify the public that the park is closed, and when so posted it shall be unlawful for any person to enter that park; and it shall be unlawful for any person to remain in that park after oral notice by the Board, or any police officer of the city, or other duly authorized representatives of the Board, that the park is closed, regardless of whether or not any signs have been posted. (1986 Code, § 3-703) (Ord. 796, passed 9-23-1991) Penalty, see § 10.99

§ 90.04 LINCOLN PARK REGULATIONS.

(A) The city has established a fishing pond in Lincoln Park. The daily possession limit shall be in accordance with the state game laws.

(B) Parking in the vicinity of the fishing lake shall be restricted only to designated parking areas with all vehicular traffic to be kept off the grass area surrounding the lake and only on the roads and parking lots.

(C) All overnight users of Lincoln Park are required to register at the "Check-In Station" located in the camping area as soon as they arrive.

(D) The maximum stay in Lincoln Park is 14 consecutive days. No exceptions.

(E) The concrete pads located in Lincoln Park are for the use of recreational vehicle campers only.

(F) All campsites must be occupied daily. No storage.

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(G) All animals shall be under the control of the owner or responsible person, either by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint so as to not be in violation of § 97.27 of this code.

(H) The Lincoln Park Camp Ground operates on donations of the general public and a substantial amount of money is required to maintain the recreational areas used by daily campers.

(I) Any person who violates any of the provisions of this code, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this code.

(Ord. 1100, passed 3-28-2005; Am. Ord. 1167, passed 7-8-2013; Am. Ord. 1180, passed 3-9-2015)

SWIMMING POOL

§ 90.15 OPERATION AND FUNDING.

The municipality owns and manages the municipal swimming pool. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements of the swimming pool may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the municipality. The revenue from the tax shall be known as the Swimming Pool Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the swimming pool. The Swimming Pool Fund shall at all times be in the custody of the Municipal Treasurer. The Park and Cemetery Board shall manage the swimming pool. The Board shall have the power and authority to hire and supervise and employees as it may deem necessary and shall pass rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the Mayor and City Council.

(1986 Code, § 3-801)

Statutory reference:

Recreation centers and areas generally, see Neb. RS 17-948 through 17-952

§ 90.16 ADMISSION CHARGE.

The Park and Cemetery Board may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, make a reasonable admission charge for the use by any person of the municipal swimming pool. The charges shall be on file at the

office of the Municipal Clerk and shall also be posted in a conspicuous place at the swimming pool for public inspection. The rates may be structured for classes of persons in a reasonable manner; provided that nothing in this section shall be construed to permit or allow discrimination on the basis of race, sex, religion, color, national origin, or ancestry in the classification of persons for admission charges. (1986 Code, § 3-802)

Statutory reference:

Authority to charge fees and prescribe regulations, see Neb. RS 17-949

Discrimination prohibited, see Neb. RS 20-132

§ 90.17 RENTALS.

The Park and Cemetery Board shall have the authority to rent the municipal swimming pool to those organizations and other persons as it may in its discretion see fit, subject to the review of the City Council. The Park and Cemetery Board shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. These fees and other costs shall be on file at the office of the Municipal Clerk and posted in a conspicuous place at the municipal swimming pool. (1986 Code, § 3-803)

§ 90.18 RULES AND REGULATIONS.

The Park and Cemetery Board shall have the power and authority to enact bylaws, rules, and regulations for the protection of those using the swimming pool and for the efficient management thereof. It may provide suitable penalties for the violation of the bylaws, rules, and regulations subject to the review and supervision of the City Council. (1986 Code, § 3-804) Penalty, see § 10.99

AUDITORIUM**§ 90.30 OWNERSHIP.**

The municipality owns and manages the municipal auditorium through the Auditorium Committee. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements on the municipal auditorium, may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all taxable property within the municipality. The revenue from the tax shall be known as the Auditorium Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the municipal auditorium. The Auditorium Fund shall at all times be in the custody of the Municipal Treasurer. The Municipal Clerk shall have the power to hire and supervise employees as he or she may deem necessary and shall pass rules and regulations for the operation of the auditorium as may be proper for its efficient management. All actions by the Municipal Clerk shall be under the supervision and control of the City Council, and in the event of vacancy in the office of Municipal Clerk, the City Council shall perform the duties thereof. (1986 Code, § 3-1201)

Statutory reference:

Auditoriums and similar facilities, see Neb. RS 17-953 through 17-955

Issuance of bonds, see Neb. RS 17-954

§ 90.31 RENTALS.

The Municipal Clerk may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the auditorium, make a reasonable rental charge for the use by any person or organization of the auditorium. The Municipal Clerk shall prescribe rules and regulations for such rentals subject to the review of the City Council. Rental rates may be structured for classes of persons and organizations in a reasonable manner; provided that nothing in this section shall be construed to permit or allow discrimination on the basis of race, color, sex, religion, national origin, or ancestry in the classification of persons and organizations for rental purposes. (1986 Code, § 3-1202)

Statutory reference:

Discrimination prohibited, see Neb. RS 20-132

Operation of facility, see Neb. RS 17-953

§ 90.32 RULES AND REGULATIONS.

The Municipal Clerk shall have the power and authority to prescribe rules and regulations for the protection of the municipal auditorium and the safety of those using the auditorium facilities. He or she may provide suitable penalties for the violation of the rules and regulations subject to the supervision and

review of the City Council. All damage suffered by the auditorium during any rental shall be assessed against the person or organization responsible for the rental thereof or shall be deducted from the damage deposit which the Municipal Clerk may in his or her discretion have required prior to the rental. The Municipal Clerk may require during any rental deputized persons to ensure that the rules and regulations and this municipal code are not violated. The wages of those persons shall be set by the Municipal Clerk and shall be paid prior to the beginning of the rental period. All rental fees, rules, and regulations shall be on file for public inspection at the office of the Municipal Clerk at any reasonable time.

(1986 Code, § 3-1203) Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-953

MUNICIPAL LIBRARY

§ 90.45 OPERATION AND FUNDING.

(A) The city may own and manage a Municipal Library through the Library Board.

(B) The City Council, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the Library, may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all taxable property within the city. The amount collected from the levy shall be known as the Library Fund.

(Neb. RS 51-201)

(C) The Fund shall also include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Municipal Library.

(D) All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance, or support of the Municipal Library shall be kept for the use of the Library separate and apart from all other funds of the city, shall be drawn upon and paid out by the City Treasurer upon vouchers signed by the president of the Library Board and authenticated by the secretary of the Board, and shall not be used or disbursed for any other purpose or in any other manner. The City Council may establish a public library sinking fund for major capital expenditures.

(Neb. RS 51-209)

(E) Any money collected by the Library shall be turned over monthly by the Librarian to the City Treasurer along with a report of the sources of the revenue.

§ 90.46 LIBRARY BOARD; GENERAL POWERS AND DUTIES.

(A) The Library Board shall have the power to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the library and reading room as it may deem expedient, not inconsistent with Neb. RS 51-201 through 51-219.

(Neb. RS 51-205)

(B) The Library Board shall have exclusive control of expenditures, of all money collected or donated to the credit of the library fund, of the renting and construction of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose.

(Neb. RS 51-207)

(C) The Library Board may erect, lease, or occupy an appropriate building for the use of such a library, and appoint a suitable librarian and assistants, fix the compensation of such appointees, and remove such appointees at the pleasure of the Board. The governing body of the city shall approve any personnel administrative or compensation policy or procedure before implementation of such policy or procedure by the Library Board.

(D) The Library Board may establish rules and regulations for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. The Library Board may fix and impose, by general rules, penalties and forfeitures for trespasses upon or injury to the library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation. The Board shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. RS 51-201 through 51-219 in establishing and maintaining the library and reading room.

(Neb. RS 51-211)

(Am. Ord. 1161, passed 3-22-2013)

§ 90.47 GROUNDS AND BUILDING.

(A) The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. RS 76-704 through 76-724.

(Neb. RS 51-210)

(B) The Board may erect, lease, or occupy an appropriate building for the use of the Library.

(Neb. RS 51-211)

(Am. Ord. 1161, passed 3-22-2013)

§ 90.48 SALE AND CONVEYANCE OF REAL ESTATE.

The Library Board may, by resolution, direct the sale and conveyance of any real estate owned by the Board or by the Municipal Library, which is not used for Library purposes, or of any real estate so donated or devised to the Board or to the Library upon such terms as the Board may deem best and as otherwise provided in Neb. RS 51-216.

(Neb. RS 51-216)

§ 90.49 MORTGAGES; RELEASE OR RENEWAL.

The president of the Library Board shall have the power to release, upon full payment, any mortgage constituting a credit to the Library Fund and standing in the name of the Library Board. The signature of the president on any such release shall be authenticated by the secretary of the Board. The president and secretary in like manner, upon resolution duly passed and adopted by the Board, may renew any such mortgage.

(Neb. RS 51-206)

§ 90.50 COST OF USE.

(A) Except as provided in division (B) of this section, the Municipal Library and reading room shall be free of charge for the use of the inhabitants of the city, subject always to such reasonable regulations as the Library Board may adopt to render the Library of the greatest use to the inhabitants. The Librarian may exclude from the use of the Library and reading rooms any person who willfully violates or refuses to comply with rules and regulations established for the government thereof.

(Neb. RS 51-212)

(B) The Library shall make its basic services available without charge to all residents of the city. The Board may fix and impose reasonable fees, not to exceed the Library's actual cost, for nonbasic services.

(Neb. RS 51-211)

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

BASIC SERVICES. Include, but are not limited to, free loan of circulating print and nonprint materials from the local collection and general reference and information services.

NONBASIC SERVICES. Include, but are not limited to, use of:

- (a) Photocopying equipment;
 - equipment; (b) Telephones, facsimile equipment, and other telecommunications
 - (c) Media equipment;
 - (d) Personal computers; and
 - (e) Videocassette recording and playing equipment.
- (Neb. RS 51-201.01)

§ 90.51 DISCRIMINATION PROHIBITED.

No Library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status.
(Neb. RS 51-211)

§ 90.52 ANNUAL REPORT.

The Library Board shall, on or before the second Monday in February in each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the president and secretary of the Library Board.
(Neb. RS 51-213)

§ 90.53 PENALTIES; RECOVERY; DISPOSITION.

Penalties imposed or accruing by any bylaw or regulation of the Library Board and any court costs and attorney's fees may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the Library Board. Money, other than any court costs and attorney's fees, collected in such actions shall be placed in the treasury of the city to the credit of the Library Fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the city and credited to the budget of the City Attorney's office.
(Neb. RS 51-214)

§ 90.54 DONATIONS.

Any person may make donation of money, lands, or other property for the benefit of the Municipal Library. The title to property so donated may be made to and shall vest in the Library Board and their successors in office, and the Board shall thereby become the owners thereof in trust to the uses of the Municipal Library.
(Neb. RS 51-215)

§ 90.55 IMPROPER BOOK REMOVAL.

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the Library without the consent of the Librarian or an authorized employee of the

Library. Any person removing a book from the Library without properly checking it out shall be deemed to be guilty of an offense.

Penalty, see § 10.99

CHAPTER 91: MUNICIPAL CEMETERY

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§ 91.01 OPERATION AND FUNDING.

The municipality owns and manages the municipal cemetery through the Park and Cemetery Board. The City Council, for the purpose of defraying the cost of the care, management, maintenance, and beautification of the cemetery, may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the municipality that is subject to taxation for general purposes. The revenue from the tax shall be known as the Cemetery Fund and shall include all gifts, grants, deeds of conveyance, bequests, money, stocks, bonds, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the cemetery. The Cemetery Fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to hire and supervise employees as it may deem necessary and to pass rules and

regulations for the operation of the cemetery as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the City Council.

(1986 Code, § 3-1001)

Statutory reference:

Cemetery board; powers and taxing authority, see Neb. RS 12-401 through 12-403, 17-938

§ 91.02 SEXTON.

The Park and Cemetery Board, subject to the approval of the City Council, shall have the authority to appoint a sexton, who shall perform those duties and make those reports as the Board shall direct, and to employ labor and assistants as the Board may deem necessary from persons not belonging to the Board. It shall be the duty of the sexton, upon receiving a burial permit, to locate and direct the party named in the permit to the lot mentioned therein and to dig and excavate, or cause the same to be dug or excavated, in compliance with the rules and regulations of the Board.

(1986 Code, § 3-1002)

Statutory reference:

Authority to contract, see Neb. RS 12-403

§ 91.03 CONVEYANCE OF LOTS.

The Mayor and City Council may convey cemetery lots by certificate signed by the Mayor, and countersigned by the Municipal Clerk under the municipal seal, specifying that the person to whom the same is issued is the owner of the lot described therein by number for the purpose of interment. The certificate shall give a right in fee simple to the proprietor, his or her heirs, and assigns. The certificate shall then be recorded in the office of the County Clerk.

(Neb. RS 17-941) (1986 Code, § 3-1003)

§ 91.04 FORFEITURE OF LOTS.

If, for 3 consecutive years, all charges and liens are not paid by the holders of the lot certificates, the certificates shall be declared forfeited and subject to resale. All certificates sold shall contain a forfeiture clause to the effect that if no interment is made on the lot and all liens paid, the certificate and the rights under the same may, at the option of the Park and Cemetery Board, with the sanction of the City Council, be declared null and void and the lot shall be subject to resale.

(1986 Code, § 3-1004)

§ 91.05 LOT TRANSFERS.

Any person who wishes to transfer a certificate may do so by surrendering the original certificate to the Municipal Clerk, who shall issue a new certificate upon the receipt of the recording fee set by resolution of the City Council.
(1986 Code, § 3-1005)

§ 91.06 PERPETUAL CARE.

The Municipal Treasurer shall allocate and set apart a percentage of the entire amount paid for lots or burial spaces if the lots or burial spaces are to be endowed with perpetual care. The fund shall be permanent in nature, and as it accumulates shall be invested in such interest bearing securities as are authorized by state law. The income earned thereon shall be used solely for the purposes of perpetual care for the cemetery lots. The principal of the fund may be used for the purchase and development of additional land to be used for cemetery purposes subject to the conditions provided in Neb. RS 12-402. Any lot owner who shall not have, prior to the purchase of his or her lot, endowed his or her holdings with perpetual care, may do so by paying to the secretary of the Park and Cemetery Board that sum of money as the City Clerk may in each case fix and determine. Thereafter, the owner shall not be liable for the payment of an annual maintenance assessment.

§ 91.07 BURIAL PERMIT.

All persons desiring to bury a deceased person shall first be required to file a completed death certificate with the Bureau of Vital Statistics before any body may be buried in the municipal cemetery. If it is impossible to complete the certificate of death within the legal period of time prescribed by state law, the funeral director shall notify the Bureau of the reason for the delay and file the certificate as soon as possible. The burial permit so issued by the Bureau shall then be filed with the Municipal Clerk. It shall be unlawful for the sexton or other person to allow the interment of a body without first receiving this permit. The burial permit shall then be countersigned and dated by the sexton. The interment of any body shall be performed under the direct supervision of a licensed funeral director. The applicant shall also file with the burial permit an application containing the name, age, sex, race, and cause of death of the deceased person for the records of the Park and Cemetery Board. Upon completion of the requirements herein, the Municipal Clerk shall then issue a municipal burial permit which shall entitle the applicant to bury a deceased person in the municipal cemetery. In the event that the removal of the body of any deceased person is requested, the Municipal Clerk shall issue no permit until the applicant shall have first complied with the laws of the state with respect to disinterment.

Penalty, see § 91.99

Statutory reference:

Death certificate general requirements, see Neb. RS 71-605

§ 91.08 BURIAL.

(A) For the opening and preparation of a grave prior to interment, the cemetery shall be given a minimum of 24 hours' notice in summer and 36 hours' notice in winter when the ground is frozen.

(B) The lot owner or funeral home representative shall designate the location of the grave on the lot to the cemetery, and any change of location made after the opening of the grave has begun shall not be at the expense of the cemetery. When definite information for locating a grave is not available in ample time for grave preparation as required above, the cemetery will exercise its best judgment in order to meet the requested interment time. The city assumes no responsibility for any error in the location and an additional charge will be made for any change requested.
(1986 Code, § 3-1006) (Am. Ord. 791, passed 4-8-1991; Am. Ord. 891, passed 9-11-1995)

§ 91.09 BURIAL; LIMITATIONS.

No burial other than a human body or parts thereof shall be made in the city cemetery.
(1986 Code, § 3-1017) (Ord. 791, passed 4-8-1991; Am. Ord. 891, passed 9-11-1995) Penalty, see § 91.99

§ 91.10 BURIAL OF INDIGENTS.

Within the municipal cemetery there shall be included a plot of ground which shall be available for the free burial of indigents and unknown travelers who may die while they are within the municipality.
(1986 Code, § 3-1007)

§ 91.11 SHRUBS AND TREES.

It shall be unlawful, without the written permission of the Park and Cemetery Board, to plant, maintain, or suffer to remain on any cemetery lot a shrub or tree attaining a height of more than 4 feet. Penalty, see § 91.99

§ 91.12 MONUMENTS.

Persons desiring to erect monuments, tombstones, or other structures shall first procure a permit from the Municipal Clerk. The Park and Cemetery Board shall review all applications and shall give written approval for any permit prior to the issuance by the Municipal Clerk of the permit. Penalty, see § 91.99

§ 91.13 GRAVE DEPTH.

Graves shall not be less than 6 feet deep; provided, nothing herein shall be construed to prohibit the use of mausoleums or other recognized methods of interring deceased persons if such a burial procedure is approved by the Park and Cemetery Board.

(1986 Code, § 3-1011) Penalty, see § 91.99

§ 91.14 VAULTS; STANDARDS.

All concrete boxes/cemetery vaults, except those used for children under the age of 6 years, or for ashes of a cremated body, shall be made of cement composition or metal and of a type now in common use or of materials and construction so as to meet the following minimum standards:

(A) Five-hundredths of an inch maximum deflection under normal burial conditions;

(B) Five thousand pounds per square inch minimum tolerance on cross section of container; and

(C) One hundred twenty-five foot-pound minimum impact force tolerance at 20°F without failure.

(1986 Code, § 3-1014) (Ord. 791, passed 4-8-1991; Am. Ord. 891, passed 9-11-1995) Penalty, see § 91.99

§ 91.15 DESTRUCTION OF PROPERTY.

Any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, or gravestone placed in the cemetery, or any fence, railing, or other work for the protection or ornamentation of the cemetery, or who shall willfully destroy, cut, break, or injure any tree, shrub, or plant, shall be deemed to be guilty of an offense.

(1986 Code, § 3-1012) Penalty, see § 91.99

Statutory reference:

Criminal mischief, see Neb. RS 28-519

§ 91.16 RECLAMATION.

When any lot has been transferred by warranty deed or by a deed conveying a fee simple title, but there has been no burial in the lot or any subdivision thereof and no payment of annual assessments for a period of 3 years, the Park and Cemetery Board, with the sanction of the City Council, may reclaim the unused portion of the lot or subdivision after notifying the record owner or his or her heirs or assigns, if known, by certified mail and publishing notice of its intention to do so. The notice shall be published once each week for 4 weeks in a newspaper of general circulation throughout the county in which the cemetery is located, shall describe the lot or subdivision proposed to be reclaimed, and shall be addressed to the person in whose name that portion stands of record, or, if there is no owner of record, to all persons claiming any interest in that lot or subdivision. If no person appears to claim the

lot or subdivision and pay all delinquent assessments with interest within 15 days after the last date of publication, the Park and Cemetery Board may by resolution reclaim the lot or subdivision. The reclamation shall be complete upon a filing of a verified copy of the resolution, together with proof of publication, in the office of the Register of Deeds.

(1986 Code, § 3-1013) (Ord. 745, passed 8-25-1986)

§ 91.17 BURIAL AND DISINTERMENT; SCHEDULE OF FEES.

(A) (1) The sexton fee for marking graves for burial purposes shall be as follows.

<i>Marking</i>	<i>Fee for Residents</i>	<i>Fee for Nonresidents</i>
Cremains buried in occupied grave site	\$150	\$200
Cremains buried in unoccupied grave site	\$125	\$175
Saturday	\$85	\$110
Sunday or legal holiday	\$100	\$125
Weekday	\$75	\$100

(2) The fee for opening graves for disinterment (to be done during regular scheduled work hours only) shall be as follows.

<i>Disinterment</i>	<i>Fee for Residents</i>	<i>Fee for Nonresidents</i>
Ashes of a cremated body	\$100	\$125
Six years or older	\$150	\$175
Under 6 years	\$140	\$165

(3) Mortuaries are responsible for the reimbursement of the individual or individuals who open the graves (grave digging).

(1986 Code, § 3-1015)

(B) For the purpose of providing a burial place for dismembered hands, feet, legs, arms and other parts of a human body, Lot 14, Section 10 of the city cemetery is hereby set aside and reserved, and all such body parts presented for burial shall be buried on this lot, or on any other lot with the permission of the lot owner. Before any body parts are buried in the cemetery, an application shall be made to the cemetery requesting that burial. The application shall contain the name of the body part, and the name of the mortician engaged in the burial thereof. A fee in the sum of \$50 covering the cost of the burial of the body part must be paid to the City Clerk at the time the application is made.

(1986 Code, § 3-1016)

(Ord. 791, passed 4-8-1991; Am. Ord. 891, passed 9-11-1995; Am. Ord. 964, passed 10-14-1997)

§ 91.18 LOTS; CERTIFICATE OF OWNERSHIP.

The price of lots in the city cemetery shall be fixed by the City Council, and a schedule of prices shall at all times be publicly exhibited in the City Clerk's office giving the prices in full, and no certificate of ownership for any lot shall be issued until the price for each lot selected shall be paid in full to the City Clerk. No change in the schedule of prices shall be made except upon a majority vote of the Council.

(1986 Code, § 3-1018) (Ord. 791, passed 4-8-1991; Am. Ord. 891, passed 9-11-1995)

§ 91.19 BURIAL SPACES; PRICES.

(A) The prices for burial spaces in the city cemetery include the price of permanent care, and the City Clerk is ordered to collect the following amounts for burial spaces.

<i>Space</i>	<i>Price for Residents</i>	<i>Price for Nonresidents</i>
One burial space	\$250	\$300
One infant space (baby row)	\$100	\$125
Transfer fee for new deed	\$25	

(B) The fees set forth in division (A) shall be waived, with title retained by the city, for any burial spaces designated by the cemetery for the burial of paupers by the county.

(1986 Code, § 3-1019) (Ord. 791, passed 4-8-1991; Am. Ord. 891, passed 9-11-1995; Am. Ord. 964, passed 10-14-1997)

§ 91.20 LOT OWNERSHIP; RESTRICTIONS.

Burial lots in the city cemetery shall not be held or used for the purpose of speculation, and no individual shall be permitted to purchase or hold more than 4 burial spaces at any 1 time, and no lot owner shall permit interment for compensation in or upon any lot owned; provided, however, that any fraternal or religious organization may purchase, at any 1 time, or hold, not to exceed 5 lots (25 burial spaces), which, however, must be in 1 body. The certificate to be issued by the City Clerk for those lots shall specifically state that the fraternal or religious organization shall not sell those lots for more than the scheduled price thereof as shown by the records in the City Clerk's office. Section 9 is designated as a veterans' section. No individual may purchase more than 2 spaces in the veterans' section and must furnish proof of veteran status at time of purchase.

(1986 Code, § 3-1020) (Ord. 791, passed 4-8-1991; Am. Ord. 891, passed 9-11-1995) Penalty, see § 91.99

§ 91.99 PENALTY.

Any person who violates any of the provisions of this chapter, unless otherwise specifically provided, shall be deemed guilty of an offense, and, upon conviction thereof, shall be fined in any sum not exceeding \$100. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

Statutory reference:

Authority to impose penalties, see Neb. RS 17-943

CHAPTER 92: FIRE REGULATIONS

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FIRE PREVENTION**§ 92.001 OPEN BURNING BAN; WAIVER.**

(A) There shall be an open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

(B) The Fire Chief may waive an open burning ban under division (A) of this section for an area under the municipal Fire Department's jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the Fire Chief to a person desiring to conduct open burning shall be in writing, signed by the Fire Chief, and on a form provided by the State Fire Marshal.

(C) The Fire Chief may waive the open burning ban in the municipal Fire Department's jurisdiction when conditions are acceptable to the Chief. Anyone intending to burn in that jurisdiction when the open burning ban has been waived shall notify the Fire Chief of his or her intention to burn prior to starting the burn.

(D) The Fire Chief may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under division (B) of this section.

(E) The Fire Department may charge a fee not to exceed \$10 for each such permit issued. This fee shall be remitted to the governing body for inclusion in the general funds allocated to the Fire Department. These funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under division (B) of this section in the course of that state's or political subdivision's official duties.

(Neb. RS 81-520.01) (1986 Code, § 7-215) (Ord. 885, passed 5-22-1995; Am. Ord. 1142, passed 11-28-2011) Penalty, see § 10.99

Statutory reference:

Statewide ban; exemptions, see Neb. RS 81-520.01

§ 92.002 FIRE PREVENTION CODE.

The rules, regulations, and standards relating to fire prevention being the National Fire Protection Association (NFPA) relating to fire prevention, being the Fire Prevention Code (FPC) standards, are incorporated by reference into this code and made part of this subchapter as though spread at large herein together with all subsequent amendments thereto. One copy of the Fire Prevention Code shall be on file with the Municipal Clerk and shall be available for public inspection at any reasonable time.

(Neb. RS 18-132, 19-902, 19-922, and 81-502) (1986 Code, § 7-201) (Am. Ord. 7-201, passed 9-23-2002)

§ 92.003 FIRE CODE ENFORCEMENT.

It shall be the duty of all municipal officials to enforce the incorporated fire code provisions and all infractions shall be immediately brought to the attention of the Fire Chief. Where the provisions of this chapter and the Fire Prevention Codes are in conflict, the Fire Prevention Codes shall prevail. (1986 Code, § 7-202)

§ 92.004 INSPECTION; LAWFUL ENTRY.

It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the Fire Chief to inspect or cause to be inspected, as often as necessary, the structure for the purpose of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the municipal ordinances affecting the hazard of fire.

(Neb. RS 81-512) (1986 Code, § 7-203)

§ 92.005 NOTICE OF VIOLATION; CORRECTION REQUIRED.

It shall be the duty of the owner, lessee, or occupant of any building or structure that was lawfully inspected as hereinbefore prescribed, and who receives written or verbal notice of a violation of any of the provisions of the municipal ordinances, to correct the condition that violates the ordinance or ordinances within 5 days from the date of receipt of that notice.
(1986 Code, § 7-204) Penalty, see § 10.99

FIRE LIMITS**§ 92.020 FIRE LIMITS ESTABLISHED.**

(A) Fire limits are hereby prescribed and established in the city within which no person shall kindle or maintain any bonfire or rubbish fire, or authorize any such fire to be kindled or maintained on any land within the fire limits.

(B) The following described territory in the city constitutes the fire limits of the city: Blocks 28, 29, 30, 35, 36, 37, 44, 45, 52, and 53, and the west half of Blocks 31 and 46, all in the Original Town, as shown by the recorded plats thereof.

(C) The use of any incinerator within the fire limits is prohibited unless the incinerator complies in all respects with the standards and requirements of the Uniform Fire Code for incinerators, in which event, burning within those incinerators shall be permitted.
(1986 Code, § 7-205) (Am. Ord. 830, passed 11-8-1993) Penalty, see § 10.99

§ 92.021 MATERIALS.

It shall be unlawful for any person to erect, build, construct, repair, or enlarge, or cause to be erected, placed, built, constructed, repaired, or enlarged within the territory described in § 92.020 any building or additions, stairway, porch, or alteration thereto, except the same shall be constructed of brick, iron, stone, cement, terra cotta, or other equivalent noncombustible material with tin, iron, slate, tile, or fireproof roof. Dormer windows in cornices shall be of or be covered with incombustible material. Any person wishing to make any improvement, alteration, or addition to any now existing frame structure located within the fire limits may, on application to the Mayor and Council, in writing, for that purpose, be granted by a 2/3 vote of the Council, a permit to make the improvement or addition, if the cost of the same does not exceed 1/4 of the present valuation of the original structure.
Permits

will be issued only when it clearly appears that the fire hazard will be reduced thereby; provided, that the same are not covered with corrugated iron sheathing, galvanized iron sheathing, tin sheathing, or covered of like material; provided further, that the Council may by a 2/3 vote authorize minor alterations or additions to existing structures if those alterations or additions are made with materials which are fire resistant.

(Neb. RS 17-550) (1986 Code, § 7-206) Penalty, see § 10.99

§ 92.022 MOVING BUILDINGS; BOND REQUIRED.

It shall be unlawful for any person to move any frame building of combustible material from any part of the city into the territory described in § 92.020 or to move any such building from one place to another within that territory; provided, however, that upon application in writing from the owner or agent, permission may be granted by a 2/3 vote of the City Council for a temporary removal of the combustible building at such a location in the street or other place within the fire limits as the Council shall specify, when the owner of any such building desires immediately to construct on its former site a building of noncombustible material and shall immediately after the completion of that noncombustible building move the combustible building outside of the fire limits; and provided, further, that before any such permit shall be issued, the owner or agent desiring the same shall furnish the city with a good and sufficient bond conditioned to save the city harmless from any liability occasioned by the removal and the payment of a penalty of \$100 dollars per day for each and every day the combustible building is allowed to remain on its temporary site after the completion of the noncombustible building.

(Neb. RS 17-550) (1986 Code, § 7-207) Penalty, see § 10.99

§ 92.023 BUILDING PERMITS.

Any person desiring to erect, enlarge, or add to any building within the fire limits shall, previous to the commencement of that work, file an application for a permit with the Zoning Enforcement Officer, which application shall state the material to be used in the construction, the estimated cost, and the general plan of the same. The application shall be considered and acted upon by the Mayor and Council as soon after its filing as can be conveniently done, and the Council shall grant the application if it appears that the proposed building or addition complies with the requirements of the ordinances of this city; otherwise it shall have the power to refuse the same.

(Neb. RS 17-550) (1986 Code, § 7-208) Penalty, see § 10.99

§ 92.024 NONCOMPLIANT BUILDING A NUISANCE.

Any building erected, enlarged, or moved into or within the fire limits, above described, contrary to or in violation of the provisions of this subchapter, shall be deemed and is hereby declared a nuisance, and it shall be the duty of the Police Chief or other agent appointed by the Council upon instructions received from the Mayor and Council to remove the building or addition thereto to some place outside of the fire limits, after 3 days' notice in writing to the builder or owner thereof to abate the same, and report the expense thereof to the Council for assessment against the owner of the building, who shall be liable to the city for all expenses incurred in the removal of the same. The city may recover the expenses thereof by civil suit brought in the name of the city in any court of competent jurisdiction or may certify the cost thereof and other delinquent taxes for assessment to the County Clerk, as herein provided.

(Neb. RS 17-550) (1986 Code, § 7-209) Penalty, see § 10.99

§ 92.025 IRONCLADS PROHIBITED.

All buildings, sheds, and structures known as ironclads, that is, buildings, sheds, or structures constructed of wood and covered with sheet iron or tin, or by sheet iron or tin attached to a framework or posts or any skeleton support, shall be considered and deemed for all purposes within every section of this subchapter to be constructed of combustible materials, and the erection of these types of buildings, sheds, and structures is hereby prohibited.

(Neb. RS 17-550) (1986 Code, § 7-210) Penalty, see § 10.99

§ 92.026 REMOVAL WHEN DAMAGED BY FIRE.

Whenever any wooden or combustible building or structure standing within the fire limits shall be damaged by fire or other casualty to the extent of 50% of its value (exclusive of foundation) it shall not be repaired or rebuilt, but shall be taken down and removed within 30 days from the date of the fire or other casualty, and it shall be unlawful for any person, persons, company, or corporation to repair or rebuild any such damaged building or structure or for any owner thereof to fail to remove any such damaged building or structure within 30 days after notice to do so from the Mayor and Council of the city.

(Neb. RS 17-550) (1986 Code, § 7-211) Penalty, see § 10.99

§ 92.027 EXCEPTIONS.

This subchapter shall not be construed to prevent the placing or piling of lumber, brick, shingles, or other building material, when necessary to be used in the erection of brick or stone buildings or buildings constructed of other incombustible material, upon the lot or lots on which the buildings are about to be erected, or upon grounds adjoining those building sites. The provisions of this subchapter shall not attach or apply to buildings owned and occupied by lumber or coal dealers and used exclusively for the storing of lumber or coal and other building material, which buildings may be constructed, repaired, reconstructed, or rebuilt of any material meeting the approval of a majority of the members of Mayor and Council, upon the procurement by the owner of the lot or piece of ground upon which those buildings are to be built, or his or her agent, of the permit provided for in § 92.023 of this code. The provisions of this subchapter shall likewise not apply to buildings hereinafter constructed within the fire limits above set out which are constructed to be used and are in fact used for the storage of coal for consumption by the owner of the building or tenant, and for no other purpose or storage whatsoever; provided, those buildings shall be of dimensions not exceeding 12 feet in length, 8 feet in width, and 8 feet in height, or of other dimensions specifically approved by the Council. That building, if not built in accordance with the provisions of this subchapter, may be constructed of wood frames within, encased and covered on the outside with fireproof material of iron, cement, or brick, and of no other construction of any kind whatsoever. Before any building may be constructed, the permit provided for in § 92.023 must be secured.

(Neb. RS 17-550) (1986 Code, § 7-212) Penalty, see § 10.99

§ 92.028 BONFIRES AND OUTDOOR RUBBISH FIRES OUTSIDE THE FIRE LIMITS.

No person shall kindle or maintain any bonfire or rubbish fire or authorize that type of fire to be kindled or maintained anywhere within the city, unless the location is outside the fire limits as established in § 92.020 of this code, and this exception shall be applicable only between the hours of 8:00 a.m. and 7:00 p.m. on Tuesdays and Thursdays and 12:00 noon and 7:00 p.m. on Saturdays. Any lawful burning shall be contained in a waste burner with a closed top or screen, of a type approved by the Fire Department, and located safely not less than 15 feet from any structure. In no event shall any fire be kindled or maintained within 15 feet of any property line of an adjoining property. The only materials which may be burned pursuant to the exceptions contained herein are wastes of non-putrescible nature limited to that of vegetation, paper, and wood material. Burning in the waste burner with a closed top or screen shall be constantly attended by a competent person and shall be completely extinguished before being left alone. A garden hose or other means of extinguishment shall be available during times of burning. The Fire Chief may order a burning ban when dry conditions exist by making public announcement on radio and notices in local paper.

(1986 Code, § 7-213) (Am. Ord. 830, passed 11-8-1993; Am. Ord. passed 10-9-2007) Penalty, see § 10.99

§ 92.029 BURNING GARBAGE PROHIBITED.

(A) It shall be unlawful for any person to set fire to, burn, or cause to be burned any materials defined as garbage.

(B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

GARBAGE. All putrescible waste, including sewage and body waste, all vegetable and animal offal, carcasses or dead animals, all household waste resulting from preparation of food, or table refuse or waste, and all accumulation of animal, vegetable, or other matter that attends the preparation, consumption, decay, dealing in, or storage of meats, fish, fowls, vegetable, or other food materials, and including all these types of substances from all public and private establishments and from all residences.

(1986 Code, § 7-214) (Ord. 830, passed 11-8-1993) Penalty, see § 10.99

FIRES**§ 92.040 PRESERVATION OF PROPERTY.**

The Fire Chief, or any officer in charge of the Fire Department, shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more

valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The Fire Chief may direct the municipal firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire. The Fire Chief shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.
(1986 Code, §§ 3-507, 7-101)

§ 92.041 DISORDERLY SPECTATOR.

It shall be unlawful for any person during the time of a fire and for a period of 36 hours after its extinguishment to hinder, resist, or refuse to obey the Fire Chief, or to act in a noisy or disorderly manner. The Fire Chief and Assistant Fire Chief shall have the power and authority during that time to arrest or command any such person to assist them in the performance of their official duties.
(Neb. RS 28-908) (1986 Code, § 7-102) Penalty, see § 10.99

§ 92.042 EQUIPMENT; INTERFERENCE PROHIBITED.

It shall be unlawful for any person except the Fire Chief and the members of the Municipal Fire Department, in the performance of their duties, to molest, destroy, handle, or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the municipality.
(Neb. RS 28-519) (1986 Code, § 7-103) Penalty, see § 10.99

§ 92.043 INTERFERENCE WITH FIREFIGHTERS PROHIBITED.

It shall be unlawful for any person or persons to hinder or obstruct the Municipal Fire Chief or the members of the Fire Department in the performance of their duty.
(Neb. RS 28-908) (1986 Code, § 7-104) Penalty, see § 10.99

§ 92.044 OBSTRUCTION OF FIRE HYDRANT PROHIBITED.

It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within 15 feet of the hydrant. Any vehicle or material found as an obstruction may be immediately removed by the Fire Chief or any member of the Fire Department, at the risk, cost, and expense of the owner or claimant.
(1986 Code, § 7-105) Penalty, see § 10.99

§ 92.045 DRIVING OVER HOSE.

It shall be unlawful for any person, without the consent of the Fire Chief or Assistant Fire Chief, to drive any vehicle over unprotected hose of the Fire Department.
(Neb. RS 39-682) (1986 Code, § 7-106) Penalty, see § 10.99

§ 92.046 TRAFFIC.

Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of 5 minutes after the sounding of the fire alarm. No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall follow, approach, or park closer than 500 feet to any fire vehicle, or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles.
(1986 Code, § 7-107) Penalty, see § 10.99

§ 92.047 FALSE ALARM.

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire.
(1986 Code, § 7-108) Penalty, see § 10.99

§ 92.048 PEDESTRIANS.

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed.
(Neb. RS 28-908) (1986 Code, § 7-109) Penalty, see § 10.99

§ 92.049 ASSISTANCE REQUIRED.

Any official of the Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire or in the removal and protection of property. It shall be unlawful for any person to refuse, neglect, or fail, after the command of the Fire Chief or Assistant Fire Chief, to aid in extinguishing a fire or to assist in the removal and protection of property.
Penalty, see § 10.99

POISONOUS AND FLAMMABLE GASES; EXPLOSIVES**§ 92.060 PETROLEUM GAS.**

Any person desiring to store or keep in his or her possession liquefied petroleum gas shall place the containers outside of buildings on nonflammable docks or platforms, and no such container shall at any time be stored within a building of any kind.
Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-549

§ 92.061 POISONOUS AND FLAMMABLE GASES.

Any person, firm, or corporation desiring to store or keep in the municipality for any period of time any form of poisonous or flammable gas or liquefied petroleum gas or add to, enlarge, or replace any facility used for the storage of these gases, must first get permission from the City Council. The City Council shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the City Council shall prescribe those rules, regulations, and precautionary actions as it may deem necessary. Permit requirements for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of the ordinance enacting this section, provided that any such present use that is discontinued for a period of 60 days shall not be revived without a permit. The provisions of this section shall be controlling throughout the municipality and throughout its zoning jurisdiction.

Penalty, see § 10.99

Statutory reference:

Authority throughout zoning jurisdiction, see Neb. RS 17-1001

Authority to regulate, see Neb. RS 17-549

Authority to regulate nuisances, see Neb. RS 18-1720

§ 92.062 BULLETS.

Cartridges, shells, and percussions caps shall be kept in their original containers away from flame, flammable materials, and high explosives.

Penalty, see § 10.99

§ 92.063 BLASTING PERMIT.

In addition to notifying the Municipal Fire Department pursuant to Neb. RS 28-1233(3), any person desiring to discharge explosive materials, as defined in Neb. RS 28-1213, within the municipality shall secure a permit from the City Council 24 hours prior to such discharge and shall discharge those explosive materials in conformance with the conditions specified in the permit. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska Patrol.

(1986 Code, § 7-305) (Ord. 865, passed 5-23-1994) Penalty, see § 10.99

§ 92.064 TRANSPORTATION.

Any person wishing to transport high explosives in the municipality shall first acquire a permit from the municipal police, and shall take those precautions and use that route as the police may prescribe. Nothing in this section shall be construed to apply to the county police, or any of the U.S. Armed Services. No vehicle transporting explosives shall make an unscheduled stop for longer than 5 minutes within the municipality; and in the event of mechanical failure, immediate notice of that breakdown shall

be given the Police Chief, who shall then prescribe those precautions as may be necessary to protect the residents of the municipality and a reasonable time for removal of the vehicle from the municipality. Penalty, see § 10.99

§ 92.065 EXPLOSIVES; LARGE QUANTITIES.

It shall be unlawful for any person, firm, or corporation to erect any buildings or tanks for storing of large quantities of dynamite, nitroglycerine, giant powder, explosive or inflammable oils, or to store kerosene, gasoline, or other petroleum products in large quantities in barrels for the purpose of carrying on the oil business within the corporate limits of this city, unless those persons, firms, or corporations secure a permit from the Mayor and Council, in writing. This permit shall specify the exact location where the storage tanks may be placed or where and under what conditions the oil and gasoline in barrels may be stored. The Mayor and Council are hereby empowered, at any time the public good demands, to order the removal of those tanks, explosives, and oil houses.

(Neb. RS 17-549) (1986 Code, § 7-301) Penalty, see § 10.99

§ 92.066 EXPLOSIVES; SMALL QUANTITIES.

It shall be lawful to keep for family or personal use in buildings owned or controlled and in enclosed metallic cans painted red, free from leak, gasoline in quantities not exceeding 2 gallons, and it is further provided that persons, firms, or corporations keeping for sale gasoline or volatile oils may be permitted to keep not to exceed 5 gallons of gasoline in enclosed metallic cans painted red, and owners of automobiles shall be permitted to have tanks in their machines full, and tightly closed in buildings owned or controlled by them. All gasoline or volatile oils in excess of the above amounts shall be kept under ground and outside of any building and be handled only by some pumping system approved by the National Board of Fire Underwriters; a copy of the general regulations of that Board is on file in the office of the City Clerk, which regulations are hereby incorporated and made a part of this subchapter, the same as though spread at large herein; and be it further provided that no gasoline or other volatile oils shall be handled except in daylight only or unless by incandescent electric light.

(Neb. RS 17-547) (1986 Code, § 7-302) Penalty, see § 10.99

§ 92.067 FLAMMABLE GASES; FILLING STATIONS; PIPE LINES.

No filling station situated within the fire limits shall have a tank with a larger capacity than 12,000 gallons. The tank or tanks shall be buried at least 3 feet under the ground, and the pipes shall have no joints under any street or alley. The city may give and grant unto persons, firms, and corporations, their heirs, successors, and assigns, the right and franchise to lay and maintain underground pipe, pipes, and pipe lines for terms not exceeding 50 years for the conveyance of gasoline, kerosene, and fuel oil in accordance with the conditions and restrictions herein expressed. The grant or franchise shall cover and apply to the particular route designated therein and no other. All pipes shall be laid at a depth of at least 3 feet below the surface and grade of the alleys and streets, and shall be so laid and maintained as not to interfere with the water and sewer pipes and mains in the alleys and streets. It shall be the duty of

the grantees to promptly fill up all excavations necessary for the laying of those pipes and to leave the alleys and streets in as good condition as they were before the excavations. The grantees, their heirs, administrators, successors, and assigns, shall save and keep harmless the city from all damage that may accrue by reason of the laying of those pipes or the making of those excavations or the failure or refusal to promptly or properly fill the same, or for any negligence of the grantees, their heirs, administrators, successors, or assigns in the premises. The pipes shall be laid and maintained in accordance with the rules and regulations of the State Fire Marshal, now existing or hereafter promulgated. Grantees hereunder may also be given and granted the right and privilege of erecting necessary pipe cranes and pump houses, not larger than 16 square feet, all to be built, erected, and maintained in accordance with the rules and regulations of the State Fire Marshal and any ordinances of the city now or hereafter to be enacted in regard thereto. The Mayor and Council are hereby empowered at any time the public safety and good demands to order the removal or discontinuance of these pipe lines. The grantee hereunder shall pay all the expense of the publication of ordinances granting the franchise herein contemplated. (Neb. RS 17-549) (1986 Code, § 7-303) Penalty, see § 10.99

§ 92.068 EXPLOSIVES; STORAGE REQUIREMENTS.

All explosive materials shall be stored in a proper receptacle made of cement, metal, or stone and be closed at all times, except when in actual use. These receptacles shall not be located in any room where there are flames or flammable materials. The area surrounding storage facilities shall be kept clear of rubbish, brush, dry grass, or trees not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities. (Neb. RS 17-549, 17-556, 28-1229, and 28-1233) (1986 Code, § 7-304) (Ord. 864, passed 5-23-1994) Penalty, see § 10.99

§ 92.069 POISONOUS AND FLAMMABLE GASES AND EXPLOSIVES; STORAGE REGISTRATION; TRANSFER.

In addition to notifying the Municipal Fire Department pursuant to Neb. RS 28-1233(3), any person desiring to store or keep for any period of time explosive materials as defined in Neb. RS 28-1213, or any form of poisonous or flammable gases or liquefied petroleum gases within the municipality shall register that information with the Municipal Clerk 24 hours prior to that storage. The transfer of the explosives or gases to another person within the municipality shall require the person receiving the explosives or gases to register the transfer and the new location of the explosives and gases with the Municipal Clerk. The transfer of explosive materials and gases to a new location by the owner shall require registration of the new location with the Municipal Clerk. This section shall not apply to the storage of 5 gallons or less of gasoline. (Neb. RS 17-549, 17-556, 28-1229, and 28-1233) (1986 Code, § 7-306) (Ord. 866, passed 5-23-1994) Penalty, see § 10.99

FIREWORKS**§ 92.080 DEFINITIONS.**

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

FIREWORKS. Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of common or special fireworks set forth by the United States Department of Transportation in Title 49, Code of Federal Regulations.

PERMISSIBLE FIREWORKS. Only sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charge for the purpose of making a noise, lady fingers, not to exceed 7/8 of an inch in length or 1/8 inch in diameter, total explosive composition not to exceed 50 milligrams in weight, color wheels, and any other fireworks approved by the State Fire Marshal under Neb. RS 28-1247 with the exception of unmanned free-floating devices capable of producing an open flame such as, but not limited to, sky lanterns, floating lanterns, fire balloons.

(Neb. RS 28-1241) (Am. Ord. 1184, passed 1-11-2016)

§ 92.081 PERMITTED FIREWORKS.

Except as provided in Neb. RS 28-1245, it shall be unlawful for any person to possess, sell, offer for sale, bring into this municipality, or discharge any fireworks other than permissible fireworks.

(Neb. RS 28-1244) (1986 Code § 6-305)

Statutory reference:

Authority to regulate, Neb. RS 17-137, 17-556, and 17-557

§ 92.082 THROWING FIREWORKS.

A person commits the offense of unlawful throwing of fireworks if he or she throws any firework, or any object which explodes upon contact with another object:

- (A) From or into a motor vehicle;
- (B) Onto any street, highway, or sidewalk;
- (C) At or near any person;
- (D) Into any building; or

(E) Into or at any group of persons.

(Neb. RS 28-1242) (1986 Code § 6-305) Penalty, see § 10.99

Statutory reference:

Authority to regulate, Neb. RS 17-137, 17-556, and 17-557

§ 92.083 SALE.

(A) It shall be unlawful for any person to sell, hold for sale, or offer for sale as distributor, jobber, or retailer any fireworks without first obtaining a license from the State Fire Marshal for that calendar year.

(Neb. RS 28-1246)

(B) Licensees shall only sell fireworks that have been approved by the State Fire Marshal.

(Neb. RS 28-1247)

(C) Permissible fireworks may be sold at retail only between June 24 and July 5 of each year.

(Neb. RS 28-1249) (1986 Code § 6-305) Penalty, see § 10.99

CHAPTER 93: HEALTH AND SAFETY

Section

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- 93.02 Enforcement official
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Nuisances

- 93.15 Definition
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Abandoned automobiles, see § 133.40

Board of Health, see § 32.04

Garbage, Rubbish, and Waste Disposal, see Ch. 55

GENERAL PROVISIONS

§ 93.01 HEALTH REGULATIONS.

For the purpose of promoting the health and safety of the residents of the municipality, the Board of Health shall, from time to time, adopt those rules and regulations relative thereto and shall make those inspections, prescribe those penalties, and make those reports as may be necessary toward that purpose.

(1986 Code, § 4-101)

Statutory reference:

Authority to regulate, see Neb. RS 17-121

§ 93.02 ENFORCEMENT OFFICIAL.

The Police Chief, as the quarantine officer, shall be the chief health officer of the municipality. It shall be his or her duty to notify the City Council and the Board of Health of health nuisances within the municipality and its zoning jurisdiction.

(1986 Code, § 4-102)

Statutory reference:

Quarantine officer, see Neb. RS 17-121

§ 93.03 COUNTY BOARD OF HEALTH.

It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the municipality.

NUISANCES**§ 93.15 DEFINITION.**

(A) *General definition.* 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:

(1) Injures or endangers the comfort, repose, health, or safety of others;

(2) Offends decency;

(3) Is offensive to the senses;

(4) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the municipality;

(5) In any way renders other persons insecure in life or the use of property; or

(6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(1986 Code, § 4-301)

(B) *Specific definition.* The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be **NUISANCES**:

- (1) 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;
- (2) The emission of smoke, dust, fumes, gases, mists, odors, or polluted air from any source that is injurious or dangerous to human health and safety;
- (3) Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats, or which are foul or malodorous;
- (4) Filthy, littered, or trash-covered cellars, houseyards, barnyards, stable yards, factory yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises;
- (5) Dead animals or dead animals buried within the corporate limits;
- (6) 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 municipality;
- (7) Hauling any garbage, waste, or refuse matter through the streets, alleys, and public ways except when the same is loaded and conveyed in such a way when none of the contents shall be spilled;
- (8) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity, provided that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the municipality, nor the dumping of non-putrefying waste in a place and manner approved by the health officer;
- (9) 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 be kept in covered bins or galvanized iron receptacles;
- (10) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw, or other packing material, lumber not neatly piled, scrap iron, tin, or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity thereof;

(11) Any unsafe building, unsightly building, billboard, or other structure, or any old, abandoned, or partially destroyed building or structure, or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof;

(12) All places used or maintained as junk yards, 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, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;

(13) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens, or any other place, building, or enclosure, in which animals or fowls 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 the places in which the animals are confined, or the premises on which the vegetable or animal matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the municipality or are maintained and kept in such a manner as to be injurious to the public health;

(14) Dead or diseased trees within the right-of-way of streets within the corporate limits of the city, or on private property within the 1 mile zoning jurisdiction beyond the corporate limits;
(Neb. RS 17-555)

(15) Stagnant water permitted or maintained on any lot or piece of ground, or undrained lots which hold or may hold stagnant water or any other nuisance;

(16) Any condition which allows the perpetuating of insects and rodents;

(17) Storage, accumulation, keeping, placing, or allowing to remain trash, garbage, scrap and wrecked, worn-out, broken or inoperative, or partially destroyed or disassembled personal or real property of any kind, including any junk or abandoned motor vehicles, tractors, trailers, machinery, and equipment;

(18) 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 on which said

vehicle is located is not a nuisance and is maintained in a healthful and safe condition. **VEHICLE** means the same as defined by Neb. RS 60-136: a motor vehicle, all-terrain vehicle, minibike, trailer, or semitrailer. **PROPERLY REGISTERED** means as required by Nebraska Statutes;

(19) Lots, pieces of ground, and the adjoining streets and alleys with growth of weeds or noxious growth; and

(20) All other things specifically designated as nuisances elsewhere in this code.
(1986 Code, § 4-302) (Am. Ord. 1144, passed 3-26-2012) Penalty, see § 10.99

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

§ 93.16 ABATEMENT PROCEDURE.

(A) The owner or occupant of any real estate within the corporate limits or zoning jurisdiction of the municipality shall keep such real estate free of nuisances. Except to the extent that conflicting procedures are otherwise provided, the procedures in this section shall apply to abatement of nuisances.

(B) Upon determination by the Board of Health or designated official that the owner or occupant of any such real estate has failed to keep the real estate free of nuisances, notice to abate and remove such nuisance and notice of the right to a hearing before the governing body and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or by certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the municipality or by conspicuously posting the notice on the real estate upon which the nuisance is to be abated and removed. The notice shall describe the condition as found by the Board of Health or designated official and state that the condition has been declared a nuisance and must be remedied at once.

(C) If within 5 days after receipt of such notice or publication or posting, whichever is applicable, the owner or occupant of the real estate does not request a hearing with the municipality or fails to comply with the order to abate and remove the nuisance, the municipality may have such work done.

(D) If within 5 days after receipt of such notice or publication or posting, whichever is applicable, the owner or occupant requests in writing a hearing with the governing body, the governing body shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the governing body to show cause why such condition should not be found to be a nuisance and remedied. The notice shall be given not less than 7 nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the governing body shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health or designated official. If after consideration

of all the evidence, the governing body finds that the condition is a nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order to abate and remove the nuisance, the governing body may have such work done.

(E) The costs and expenses of any such work shall be paid by the owner. If unpaid for 2 months after such work is done, the municipality may either:

(1) Levy and assess the costs and expenses of the work upon the real estate so benefitted as a special assessment in the same manner as other special assessments for improvements are levied and assessed; or

(2) Recover in a civil action the costs and expenses of the work upon the real estate and the adjoining streets and alleys.

(1986 Code, § 4-303) (Am. Ord. 1186, passed 2-22-2016) Penalty, see § 10.99

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

§ 93.17 JURISDICTION.

The Mayor and municipal police are directed to enforce this municipal code against all nuisances. The jurisdiction of the Mayor, municipal police, and court shall extend to and the territorial application of this chapter shall include, all territory adjacent to the limits of the municipality within 1 mile thereof and all territory within the corporate limits.

(1986 Code, § 4-304)

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

Zoning jurisdiction, see Neb. RS 17-1001

§ 93.18 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 municipality, the owners of the adjoining property may intervene in the action at any time before trial.

(Neb. RS 19-710) (1986 Code, § 4-305)

DISEASE; DEAD ANIMALS**§ 93.30 CONTAGIOUS DISEASE; PHYSICIAN REPORT REQUIRED.**

It shall be the duty of every physician called in to care for or treat a person afflicted with any contagious disease or any epidemic disease to make a report of the same within 24 hours after being called in for that care, to the Municipal Police Chief. In the event that no physician is in attendance, it shall be the duty of the person in charge of the care of the ill patient to make a report within 24 hours from the time the disease is recognized.

(Neb. RS 71-503) (1986 Code, § 4-201) Penalty, see § 10.99

§ 93.31 SPREADING CONTAGION PROHIBITED.

It shall be unlawful for any person to spread disease willfully or negligently, or to cause the spread of the same.

(Neb. RS 17-114, 17-123, and 17-207) (1986 Code, § 4-202) Penalty, see § 10.99

§ 93.32 DEAD ANIMALS; REMOVAL.

All dead animals shall be immediately removed and buried by the owner of those animals; and if the owner of the animal cannot be found within 2 hours after discovering the same, then the animal shall be removed by and at the expense of the municipality. Dead animals shall not be buried within the corporate limits of the municipality, nor within 1 mile thereof, nor in or above the course of ground water that is used for drinking purposes by the municipality or its inhabitants.

(Neb. RS 17-114 and 17-123) (1986 Code, § 4-203) Penalty, see § 10.99

CHAPTER 94: PUBLIC WAYS AND PROPERTY

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- 94.03 Obstructions
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Cross-reference:

Trees, see Ch. 95

One call notification, see § 150.029

MUNICIPAL PROPERTY

§ 94.01 DEFINITIONS.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SIDEWALK SPACE. The portion of a street between curb lines and adjacent property lines.
(1986 Code, § 8-101)

§ 94.02 MAINTENANCE AND CONTROL.

The City Council shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the municipality and shall cause the same to be kept open and in repair and free from nuisances.

(Neb. RS 17-567) (1986 Code, § 8-102)

§ 94.03 OBSTRUCTIONS.

(A) Trees and shrubs growing upon or near the lot line, or upon public ground, and interfering with the use or construction of any public improvements shall be deemed an obstruction under this chapter.

Those trees and shrubs and their roots may be removed by the municipality at the expense of the owner of the property upon which the tree is located should the owner fail or neglect, after notice, to do so.

(B) It shall be unlawful for any person, persons, firm, or corporation to obstruct or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks.

(C) The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property shall permit or suffer to remain on any premises owned or controlled by him or her any hedge, shrubbery, bush, or similar growth within 2 feet adjacent to the lot line whether there is a sidewalk abutting or adjoining the premises or not. It shall be the duty of owners and occupants to at all times keep trimmed and pruned all similar growth. Whenever any such growth is allowed to grow within 2 feet of the lot line contrary to the provisions of this chapter, the City Council may pass a resolution ordering the owner or occupant to remove those obstructions within 5 days after having been served with a copy of the resolution by the municipality stating that the municipality will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, or shall collect the same by civil suit brought in the name of the municipality against the owner or occupant.

(D) It shall be the duty of an owner or occupant engaged in construction of any building or improvement upon or near the public ways and property to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day and by warning lights at night. In the event of failure, neglect, or refusal to comply with the provisions of this subchapter, the municipality shall have the power to stop all work upon the buildings and improvements until suitable guards are erected and kept in the manner given above.

(E) Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, but so close to the lot line as to interfere with the making of any public improvement or so that the roots thereof interfere with any utility wires or pipe, shall be deemed an obstruction, and those trees, shrubs, and roots may be removed by the municipality pursuant to the procedure prescribed above.

(F) In the event the property owner is a nonresident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.

(1986 Code, § 8-103)

(G) Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building, or the construction or repair of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary if those persons shall make application to and receive a permit in writing from the Municipal Clerk to do so; provided that no permit for the occupancy of the sidewalk space and more than 1/3 of the roadway of the public space adjacent to the real estate on which the building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted; and provided further that a suitable passageway for pedestrians shall be maintained within

the public space included in the permit which shall be protected and lighted in the manner required by the Utilities Superintendent.

(H) *Regulation of obstructions.*

(1) The municipality shall have the power to remove all obstructions from the sidewalks, curbstones, gutters, and crosswalks at the expense of the person placing them there or at the expense of the municipality and to require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

(2) The municipality shall have the power to regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows, doorways, awnings, hitching posts and rails, lampposts, awning posts, all other structures projecting upon or over and adjoining, and all other excavations through and under the sidewalks in the municipality.

(Neb. RS 17-555)

(1986 Code, § 8-105) Penalty, see § 10.99

Statutory reference:

Authority to regulate and abate obstructions, see Neb. RS 17-557 and 17-557.01

Authority to remove obstructions, see Neb. RS 17-555

§ 94.04 WEEDS.

It is hereby the duty of the Municipal Clerk or his or her duly authorized agent to view and inspect the sidewalk space within the corporate limits for growing weeds during the growing season, and if rank and noxious weeds are found growing thereon, he or she shall notify the owner or occupant thereof to cut down those weeds as close to the ground as can be practicably done and keep the weeds cut thereon in like manner during the growing season for weeds, provided that any weeds growing in excess of 12 inches on any sidewalk space shall be considered a violation of this section. In the event that the owner of the lot or parcel of land abutting the sidewalk space within the municipality is a nonresident of the municipality or cannot be found therein the notice may be given to any person having the care, custody, or control of that lot or parcel of land. In the event that there can be found no one within the municipality to whom notice can be given, it shall be the duty of the Municipal Clerk or his or her agent to post a copy of the notice on the premises and then to cut or cause the weeds thereon to be cut as therein provided and report the cost thereof in writing to the City Council. The cost shall then be audited and paid by the municipality and the amount thereof shall be assessed against the lot or parcel of land as a special tax thereon and shall be collected as are other taxes of the municipality or may be recovered by civil suit brought by the municipality against the owner of the parcel of land. In the event the property owner is a nonresident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law

to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.

(1986 Code, § 8-106) Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-563

§ 94.05 SIGNS AND CANOPIES.

No person, firm, or corporation shall erect or maintain any sign, signboard, poster, or rigid canopy over any street, sidewalk, alley, or on other public property without having first obtained a permit therefor. Permits for signs, canopies, posters, and signboards shall be issued by the Municipal Clerk, subject to the approval of the Utilities Superintendent, upon payment of a fee set by the City Council by resolution. All signs and canopies extending over any public sidewalk, street, alley, or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds, or falling from other causes. No sign or canopy shall be erected or maintained which extends over any public sidewalk, street, alley, or other public place in such a location

as to obstruct the view of any traffic light, sign, or signal. Upon the written order of the City Council, any person owning or occupying the premises where such a sign, canopy, poster, or signboard is located shall cause the same to be removed within the time limit specified on that notice.

Penalty, see § 10.99

§ 94.06 SALE AND CONVEYANCE; REAL PROPERTY.

(A) Except as provided in division (G) of this section, the power of the city to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of the property and the manner and terms thereof, except that the property shall not be sold at public auction or by sealed bid when:

- (1) The property is being sold in compliance with the requirements of federal or state grants or programs;
- (2) The property is being conveyed to another public agency; or
- (3) The property consists of streets and alleys.

(B) The City Council may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(C) After the passage of the resolution directing the sale, notice of all proposed sales of property described in division (A) of this section and the terms thereof shall be published once each week for 3 consecutive weeks in a legal newspaper published in or of general circulation in the city.

(D) (1) If within 30 days after the third publication of the notice a remonstrance against the sale is signed by registered voters of the city equal in number to 30% of the registered voters of the city voting at the last regular municipal election held therein and is filed with the City Council, the property shall not then, nor within 1 year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

(2) Upon the receipt of the remonstrance, the City Council, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The City Council shall deliver the remonstrance to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested.

(3) Upon receipt of the remonstrance, the Election Commissioner or County Clerk shall issue to the City Council a written receipt that the remonstrance is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a

registered voter on or before the date on which the remonstrance was filed with the City Council. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and city or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and city or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the City Council. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the City Council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process.

(4) Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the non-registration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of the signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only 1 person is registered by that name, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

(5) The Election Commissioner or County Clerk shall certify to the City Council the number of valid signatures necessary to constitute a valid remonstrance. The Election Commissioner or County Clerk shall deliver the remonstrance and the certifications to the City Council within 40 days after the receipt of the remonstrance from the City Council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than 20 signatures on 1 signature page shall be counted.

(6) The City Council shall, within 30 days after the receipt of the remonstrance and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The City Council shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

(E) Real estate now owned or hereafter owned by the city may be conveyed without consideration to the state for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. RS 18-1001 through 18-1006.

(F) Following passage of the resolution directing a sale, publishing of the notice of the proposed sale, and passing of the 30-day right-of-remonstrance period, the property shall then be sold. The sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. (Neb. RS 17-503)

(G) Divisions (A) through (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than \$5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in 3 prominent places within the city for a period of not less than 7 days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (Neb. RS 17-503.01) (1986 Code, § 8-104) (Ord. 867, passed 5-23-1994; Am. Ord. 917, passed 3-25-1996; Am. Ord. 988, passed 8-24-1998)

§ 94.07 SALE AND CONVEYANCE; PERSONAL PROPERTY.

(A) The power of the city to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in 3 prominent places within the city for a period of not less than 7 days prior to the sale of the property. If the fair market value of the property is greater than \$5,000, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in the city at least 7 days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale.

(B) Personal property may be conveyed notwithstanding the procedure in division (A) of this section when:

(1) Such property is being sold in compliance with the requirements of federal or state grants or programs; or

(2) Such property is being conveyed to another public agency.
(Neb. RS 17-503.02) (1986 Code, § 8-104)

§ 94.08 ACQUISITION OF PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED.

(A) The municipality is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, municipal building, or community house for housing municipal enterprises and social and recreation purposes, and other public buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the municipality.

(B) Except as provided in division (C) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the municipality at a general municipal

election or at an election duly called for that purpose, or as set forth in Neb. RS 17-954, and be adopted by a majority of the electors voting on that question.
(Neb. RS 17-953)

(C) If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

(1) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the municipality, and no election shall be required to approve the purchase or construction unless, within 30 days after the publication of the notice, a remonstrance against the purchase or construction is signed by registered voters of the municipality equal in number to 15% of the registered voters of the municipality voting at the last regular municipal election held therein and is filed with the City Council. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the municipality at a general municipal election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within 1 year following the election, be purchased or constructed; or

(2) The City Council may proceed without providing the notice and right of remonstrance required in division (C)(1) of this section if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000. The purchase shall be approved by the City Council after notice and public hearing as provided in Neb. RS 18-1755.

(Neb. RS 17-953.01)

(1986 Code, § 8-107) (Am. Ord. 918, passed 4-22-1996)

§ 94.09 ACQUISITION OF REAL PROPERTY; APPRAISAL.

Notwithstanding any other provision of law, the municipality shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of \$100,000 or more unless an appraisal of that property has been performed by a certified real property appraiser.

(Neb. RS 13-403) (1986 Code, § 8-109) (Ord. 887, passed 2-27-1995)

§ 94.10 ACQUISITION OF REAL PROPERTY; ACCESS FOR RECREATIONAL USE.

(A) The village shall acquire an interest in real property by purchase or eminent domain only after the Board of Trustees has authorized the acquisition by action taken in a public meeting after notice and public hearing.

(B) The village shall provide to the public a right of access for recreational use to real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowner adjacent to the real property.

(Neb. RS 18-1755) (1986 Code, § 8-108) (Ord. 886, passed 2-27-1995)

§ 94.11 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS.

(A) (1) Except as otherwise provided in this section and Neb. RS 81-3449 and 81-3453, the municipality shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

(2) This division (A) shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed \$100,000 or the adjusted dollar amount set by the Board of Engineers and Architects.

(Neb. RS 81-3445)

(B) The provisions of division (A) of this section regulating the practice of architecture do not apply to the following activities or the other activities specified in Neb. RS 81-3449:

(1) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(2) A public service provider who employs a design professional performing professional services for itself;

(3) The practice of any other certified trade or legally recognized profession;

(4) Earthmoving and related work associated with soil and water conservation practices performed any land owned by the municipality that is not subject to a permit from the Department of Natural Resources; and

(5) The work of employees and agents of the municipality performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

(Neb. RS 81-3449)

(C) The provisions of division (A) of this section regulating the practice of engineering do not apply to the following activities, the activities specified in division (B) of this section, or the other activities specified in Neb. RS 81-3453:

(1) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant; and

(2) The construction of water wells as defined in Neb. RS 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the municipality to be designed or supervised by an engineer or unless legal requirements are imposed upon the municipality as a part of a public water supply;

(Neb. RS 81-3453)

(D) For the purpose of this section, the municipality is considered a public service provider if it employs or appoints an architect or a professional engineer to be in responsible charge of the municipality's architectural or engineering work.

(Neb. RS 81-3423)

(1986 Code, § 8-110) (Ord. 989, passed 8-24-1998; Am. Ord. 1-213, passed 10-10-2000; Am. Ord. 1142, passed 11-28-2011; Am. Ord. 1186, passed 2-22-2016)

SIDEWALKS

§ 94.25 REQUIREMENT TO KEEP CLEAN.

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon the sidewalk. All sidewalks within the business district shall be cleaned within 5 hours after the cessation of a storm, unless the storm

or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 9:00 a.m. the following day; provided that sidewalks within the residential areas of the municipality shall be cleaned within 24 hours after the cessation of the storm.

(1986 Code, § 8-201) Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-557

§ 94.26 REGULATION OF SNOW, ICE AND OTHER ENCROACHMENTS.

(A) The municipality shall have power to prevent and remove all encroachments, including snow, ice, mud or other obstructions, into and upon all sidewalks, streets, avenues, alleys, and other municipal property.

(Neb. RS 17-557)

(B) If the abutting property owner refuses or neglects, after 5 days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, as provided in division (A), the municipality through the proper officers may cause such encroachments to be removed, and the cost of removal shall be paid out of the street fund. The governing body shall assess the cost of the notice and removal of the encroachment against the abutting property as a special assessment. The special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as a special assessment in addition to the general revenue taxes and shall be subject to the same penalties as other special assessments and shall draw interest from the date of the assessment. Upon payment of the assessment, the assessment shall be credited to the street fund.

(Neb. RS 17-557.01)

(1986 Code, § 8-202) (Am. Ord. 1186, passed 2-22-2016) Penalty, see § 10.99

§ 94.27 DANGEROUS STAIRWAY.

It shall be unlawful for any person to construct or maintain any stairway, open cellarway, open basement way, or open entrance thereto in or adjacent to any sidewalk, pavement, or street, and any such entrance is hereby declared to be a public nuisance; provided that all existing stairways, open cellarways, open basement ways, or open entrances thereto in sidewalks, pavements, or streets may be permitted to remain from and after the passage, approval, and publication of this code if the person owning or using the opening in the sidewalk or street shall satisfy the Utilities Superintendent that the same is properly protected by a balustrade or coping of durable material and shall furnish the municipality with a bond in the amount as the Governing Body may set, for the benefit of any person who might suffer an injury or damage by reason of the use of the stairway, cellarway, or open basement way.

(1986 Code, § 8-211) Penalty, see § 10.99

§ 94.28 CONSTRUCTION AT OWNER'S INITIATIVE.

Any person desiring to construct or cause to be constructed any sidewalk on any street or avenue abutting his or her property in the city shall obtain a building permit issued by the City Planning and Zoning Department. Application for this permit shall be made in writing and filed in the office of the Planning and Zoning Department, and shall give a description of the lot or piece of land along which it is desired to construct the sidewalk. The Zoning Enforcement Officer shall grant the permit unless good cause shall appear why the permit shall be denied; provided, that if it is desired to construct the sidewalk at other than the regularly prescribed location, grade, or elevation, the Zoning Enforcement Officer shall submit the application to the City Council who shall determine whether the permit shall be granted or denied. All sidewalks shall be built and constructed on the established grade or elevation, or if there is no established grade, then on the grade or location indicated by the Zoning Enforcement Officer within 10 days after being issued a permit to do so.

(1986 Code, § 8-206) (Am. Ord. 8-206, passed 8-14-2000) Penalty, see § 10.99

§ 94.29 CONSTRUCTION AND REPAIR AT MUNICIPAL DIRECTION.

(A) (1) The Mayor and City Council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as the Mayor and City Council deem necessary and assess the expense thereof on the property in front of which such construction or repairs are made, after having given notice:

(a) By publication in one issue of a legal newspaper of general circulation in the city;
and

(b) By either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises 10 days prior to the commencement of such construction or repair.

(2) The powers conferred under this section are in addition to those provided in Neb. RS 17-509 to 17-521 and may be exercised without creating an improvement district.

(3) If the owner of any property abutting any street or avenue or part thereof fails to construct or repair any sidewalk in front of the owner's property within the time and in the manner as directed and requested by the Mayor and Council, after having received due notice to do so, the Mayor and Council may cause the sidewalk to be constructed or repaired and may assess the cost thereof against the property.

(Neb. RS 17-522)

(B) All sidewalks shall be constructed and repaired in conformity with such plans and specifications as may be approved by the Mayor and City Council.

(C) (1) Before the city imposes any special assessments for sidewalk construction or repair, a copy of the notice that is required to be published shall be mailed to the last-known address of all nonresident property owners as shown on the current tax rolls at the time such notice is first published. (Neb. RS 13-310)

(2) The City Clerk shall mail the notice by certified mail with return receipt requested. (Neb. RS 13-312)

(3) For purposes of this division (C), the following definition shall apply unless the context clearly indicates or requires a different meaning.

NONRESIDENT PROPERTY OWNER. Any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county in which the property subject to assessment is located and who is a record owner of the property. (Neb. RS 13-314)

(D) Assessments made under this section shall be made and assessed in the manner provided in Neb. RS 17-524.

(1986 Code, §§ 8-204, 8-205, 8-208)

Statutory reference:

Authority to construct and repair, Neb. RS 17-509 et seq. and 17-522 through 17-524

Authority to improve through sidewalk district, Neb. RS 19-2417 through 19-2419

§ 94.30 WIDTH; DISTANCE FROM LOT LINE.

(A) The width of sidewalks on both sides of Central Avenue between the South Line of First Street and the North Line of Fifth Street in the city is hereby fixed and established at 18 feet. The width of sidewalks on both sides of Commercial Avenue between the South Line of Second Street and the North Line of Fourth Street in the city is hereby fixed and established at 14 feet. The width of sidewalks on both sides of Second Street, Third Street, and Fourth Street, between Commercial Avenue and National Avenue, is hereby fixed and established at 14 feet.

(B) The width of sidewalks on all streets within the city, except within the areas above mentioned, is hereby fixed and established at 4 feet. Hereafter no sidewalk shall be constructed or maintained within the corporate limits of the city unless the same be of the width hereinbefore fixed or established for the street upon which that sidewalk is constructed or maintained.

(C) All sidewalks fixed and established at 18 or 14 feet shall be laid even with the lot line; and all sidewalks fixed and established at 4 feet shall be laid 16 inches from the lot line.

(Neb. RS 17-141) (1986 Code, § 8-207) (Am. Ord. 753, passed 5-26-1987) Penalty, see § 10.99

§ 94.31 CONSTRUCTION BIDS.

Whenever the municipality shall construct, widen, replace, or reconstruct any sidewalk, notice prepared by the Municipal Attorney, specifying the work to be done and calling for bids for doing that work and supplying the necessary materials and labor shall be published in at least 1 issue of a legal newspaper of general circulation in the municipality; provided, bids so invited shall be filed in the office of the Municipal Clerk within 10 days after the date of publication. Bids shall be opened at the next regular or special meeting of the Governing Body, and the Governing Body shall then award the work to the lowest responsible bidder. Upon approval of the work, the Governing Body may require the contractor to accept payment in certificates issued to him or her by the Municipal Clerk entitling him or her to all assessments or special taxes against that real estate whenever those assessments or special taxes shall be collected, together with the interest or penalty collected thereon. Each certificate shall give the legal description of the lot, lots, or parcel of ground against which the assessments or special taxes are assessed. This certificate or certificates may be assigned and transferred, entitling the holder to the same rights as if held by the original contractor. The County Treasurer shall pay over to the contractor or other holder of the certificate or certificates all assessments or special taxes against that real estate, together with the interest and penalty thereon, at any time upon presentation of the certificate or certificates after the assessments or special taxes against that real estate together with interest or penalty thereon shall have been collected.

(1986 Code, § 8-209)

§ 94.32 CONSTRUCTION BY PETITION.

If the owners of the record title representing more than 60% of the front footage of the directly abutting property, subject to assessment for sidewalk improvements, petition the Governing Body to make the same, the Governing Body shall proceed in all things as though the construction had been ordered by it. Upon the petition of any freeholder who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the Governing Body may order permanent sidewalks built in accordance with this subchapter upon the freeholder making, executing, and delivering to the municipality an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires the sidewalk to be constructed and that the petitioner gives and grants to the municipality the right to assess and levy the costs of that construction against the freeholder's real estate abutting the sidewalk improvement and promises to pay those costs with interest. The total cost of the improvement shall be levied, allocated, financed, and specially assessed as provided by law. In the event the property owner is a nonresident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time the required notice was first published.

(1986 Code, § 8-210)

STREETS**§ 94.50 OPENING, WIDENING, IMPROVING, OR VACATING.**

(A) (1) The city shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the city and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the city, or by the owners of the property therein, shall be ascertained in such manner as shall be provided by ordinance.

(2) Whenever any street or alley is vacated, the same shall revert to the owners of the abutting real estate, $\frac{1}{2}$ on each side thereof and become a part of such property, unless the city reserves title in the ordinance vacating such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(3) When a portion of a street, avenue, alley, or lane is vacated only on 1 side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property unless the city reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(4) When the city vacates all or any portion of a street, avenue, alley, or lane, the city shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the Register of Deeds for the county in which the vacated property is located to be indexed against all affected lots.

(5) The title to property vacated pursuant to this section shall be subject to the following:

(a) There is reserved to the city the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and

(b) There is reserved to the city, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.
(Neb. RS 17-558)

(B) The City Council shall have power to create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way, or annul, vacate, or discontinue the same.
(Neb. RS 17-559) (1986 Code, § 8-303)

§ 94.51 GRADING, PAVING, AND OTHER IMPROVEMENTS.

(A) The municipality has the power to provide for the grading and repair of any street, avenue, or alley. No street, avenue, or alley shall be graded unless the grading is ordered to be done by the affirmative vote of 2/3 of the City Council.
(Neb. RS 17-508)

(B) The City Council may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravels, macadamize, remacadamize, widen or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any streets, alleys, public grounds, public ways, entirely or partially, and streets which divide the city corporate area and the area adjoining the city. These projects may be funded at public cost or by the levy of special assessments on the property especially benefitted in proportion to the benefits, except as provided in Neb. RS 19-2428 through 19-2431. The City Council may by ordinance create improvement districts, to be consecutively numbered, which may include 2 or more connecting or intersecting streets, alleys, or public ways, and may include 2 or more of the improvements in 1 proceeding.
(Neb. RS 17-509)

(C) Whenever the City Council deems it necessary to make the improvements in division (B) which are to be funded by a levy of special assessment on the property especially benefitted, the City Council shall by ordinance create an improvement district.
(Neb. RS 17-511)

§ 94.52 IMPROVEMENTS WITHOUT PETITION OR CREATION OF DISTRICT.

(A) The municipality may, without petition or creating a street improvement district, grade, curb, gutter, and pave:

(1) Any portion of a street otherwise paved so as to make 1 continuous paved street, but the portion to be so improved shall not exceed 2 blocks, including intersections, or 1,325 feet, whichever is the lesser;

(2) Any unpaved street or alley which intersects a paved street for a distance not to exceed 1 block on either side of the paved street; and

(3) Any side street or alley within its corporate limits connecting with a major traffic street for a distance not to exceed 1 block from the major traffic street.

(B) These improvements may be performed upon any portion of a street or any unpaved street or alley not previously improved to meet or exceed the minimum standards for pavement set by the municipality for its paved streets.

(C) In order to defray the costs and expenses of these improvements, the municipality may levy and collect special taxes and assessments or issue paving bonds as provided in Neb. RS 18-2003. (Neb. RS 18-2001 through 18-2004) (1986 Code, § 8-311)

§ 94.53 CONSTRUCTION NOTICE.

The Municipal Clerk shall notify the owners in fee simple of real estate abutting a street, alley, or a part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service, and telephone companies. Notice shall also be given to all consumers of gas, water, and sewer services which will be discontinued during the construction. The notice shall be published 1 time in a legal newspaper at least 20 days prior to the beginning of the construction by the party undertaking the construction, and the notice shall state at what date connections must be made and excavation completed. All gas, water, sewer, and underground connections must be made prior to the paving or repaving of the street under construction. After expiration of that time, permits for excavation will not be issued, nor will excavation be allowed, until after the completion of the pavement in that street or alley, and the formal final acceptance thereof by the proper officials of the municipality.

(1986 Code, § 8-309) Penalty, see § 10.99

§ 94.54 PETITION FOR IMPROVEMENTS.

Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way, or the public grounds proposed to be improved shall be presented and filed with the Municipal Clerk, petitioning therefor, the Governing Body shall by ordinance create a paving, graveling, or other improvement district or districts, and shall cause that work to be done or that improvement to be made, and shall contract therefor, and shall levy assessments on the lots and parcels of land abutting on or adjacent to the street, streets, alley, or alleys, especially benefitted thereby in that district in proportion to the benefits, to pay the cost of the improvement. The Governing Body shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the Governing Body should deny a requested improvement district formation, it shall state the grounds for that denial in a written letter to interested parties.

(Neb. RS 17-510) (1986 Code, § 8-312)

§ 94.55 IMPROVEMENT DISTRICTS; OBJECTIONS.

Whenever the Governing Body deems it necessary to make any improvements allowed by statute which are to be funded by a levy of special assessment on the property especially benefitted, the Governing Body shall by ordinance create a paving, graveling, or other improvement district and, after the passage, approval, and publication or posting of that ordinance, shall publish notice of the creation of any such district for 6 days in a legal newspaper of the municipality, if a daily newspaper, or for 2 consecutive weeks if it is a weekly newspaper. If no legal newspaper is published in the municipality, the publication shall be in a legal newspaper of general circulation in the municipality. If the owners of

the record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the Municipal Clerk within 20 days after the first publication of the notice written objections to the creation of the district, the improvement shall not be made as provided in that ordinance, but the ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the Governing Body shall immediately cause the work to be done or the improvement to be made, shall contract for the work or improvement, and shall levy assessments on the lots and parcels of land abutting on or adjacent to the street or alley especially benefitted in the district in proportion to the benefits to pay the cost of the improvement. (Neb. RS 17-511) (1986 Code, § 8-313) (Am. Ord. 919, passed 4-22-1996)

§ 94.56 IMPROVEMENT OF MAIN THOROUGHFARES.

The Mayor and City Council shall have the power, by a 3/4 vote of the Governing Body, to create by ordinance a paving, graveling, or other improvement district and to order that work done upon any federal or state highway in the municipality, or upon a street or route designated by the Mayor and City Council as a main thoroughfare that connects, on both ends, to either a federal or state highway or a county road. The Governing Body shall contract therefor and shall have the power to assess, to the extent of special benefits, the costs of the improvements upon the properties found especially benefitted thereby.

(Neb. RS 17-512) (1986 Code, § 8-315)

§ 94.57 VACATING PUBLIC WAYS.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SPECIAL DAMAGES. Only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his or her property and which result from the City Council vacating a street, avenue, alley, lane, or similar public way. **SPECIAL DAMAGES** shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the city or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the city or public at large.

(1986 Code, § 8-317) (Ord. 748, passed 8-25-1986)

(B) Whenever the City Council decides that it would be in the best interests of the city to vacate a street, avenue, alley, lane, or similar public way, the City Council shall comply with the following procedure.

(1) Notice shall be given to all abutting property owners either by first class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the city. The content of the notice shall advise the abutting property owners that the City Council will consider vacating the street, avenue, alley, lane, or similar public way at its next

regular meeting, or, if a special meeting is scheduled for the discussion, then the date, time, and place of that meeting.

(2) The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the City Council and waive their right of access. The signing of this form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the City Council's action was proper. If the abutting property owners do not sign the consent/waiver form, the City Council may still proceed with vacating the street, avenue, alley, lane, or similar public way under the authority granted by Neb. RS 17-558 and 17-559.

(3) The City Council shall pass an ordinance that includes essentially the following provisions:

(a) A declaration that the action is expedient for the public good or in the best interests of the city;

(b) A statement that the city will have an easement for maintaining all utilities; and

(c) A method or procedure for ascertaining special damages to abutting property owners. (1986 Code, § 8-318) (Ord. 749, passed 8-25-1986)

(C) The Mayor shall appoint 3 or 5 or 7 disinterested residents of the city to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the City Council vacating the street, avenue, alley, lane, or similar public way. The appointees of the special commission shall be approved by the City Council. Only special damages shall be awarded to the abutting property owners.

(D) In determining the amount of compensation to award the abutting property owners as special damages, the commission shall use the following rule:

An abutting property owner is entitled to recover as compensation the difference between the value of the property immediately before and immediately after the vacating of the street, avenue, alley, lane, or similar public way. If no difference in value exists, the abutting property owner is entitled to no compensation.

(1986 Code, § 8-317) (Ord. 748, passed 8-25-1986)

§ 94.58 CROSSINGS.

The City Council may order and cause to be constructed, under the supervision of the municipal official in charge of streets, those street, avenue, and alley crossings as the City Council shall deem necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the Municipal Clerk, the Municipal Clerk shall refer the application to the Utilities Superintendent who shall investigate and make a recommendation to the City Council. Action by the

City Council on that application, whether the application is approved or rejected, shall be considered final.

Statutory reference:

Authority, see Neb. RS 17-509

§ 94.59 NAMES AND NUMBERS.

The City Council may at any time, by ordinance, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along the streets shall retain those numbers as the City Council may require. It shall be the duty of the City Clerk, upon the erection of any new building or buildings, to assign the proper numbers to the building or buildings and give notice to the owner or owners and occupant or occupants of the same.

(1986 Code, §§ 8-301 and 8-302) Penalty, see § 10.99

Statutory reference:

Authority to improve, see Neb. RS 17-509

§ 94.60 CUTTING INTO PAVING, CURB, OR SIDEWALK.

It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the City Council therefor. Before any person shall obtain a permit, the person shall inform the Municipal Clerk of the place where that cutting is to be done, and it shall be the Utilities Superintendent's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut. When cutting into any paving, it shall be the duty of the party to cut the paving under those rules and regulations as may be prescribed by the City Council or the Municipal Engineer. When the applicant is ready to close the opening made, the applicant shall inform the Utilities Superintendent, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the City Council to order the Utilities Superintendent, under the supervision and inspection of the Municipal Engineer or the committee of the City Council on the streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained the permit. The City Council may consent to the work of cutting and closing the paving to be done by the party holding the permit.

(1986 Code, § 8-402) Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-567

§ 94.61 CURB AND GUTTER CONSTRUCTION SPECIFICATIONS; PERMIT REQUIRED.

(A) No person, firm, or corporation shall build or construct any curb or gutter in any street in this city without first having made application for and receiving a permit so to do from the Governing Body.

(B) Curbs shall be constructed at the distance from the lot line as designated in the permit issued by the Governing Body, shall be built of concrete, shall be placed 6 inches in the ground below the gutter, shall be 6 inches wide, shall be made 5 to 1 gravel and sand and cement and 2 to 1 mixture of sand and gravel mixed with cement top and face, top to be 1 inch thick. Gutters shall be constructed in accordance with the established grade, shall be built 30 inches wide including the width of the curb, shall measure 7 inches in depth at the outer edge and 6 inches in depth at their juncture next to the curb, and shall be built 8 inches high in graveled streets. As to materials and manner of construction, they shall conform to curb regulations required by this section. All curbs and gutters shall be laid under the supervision of the Utilities Superintendent or committee on streets and alleys.

(Neb. RS 17-567) (1986 Code, § 8-401) Penalty, see § 10.99

§ 94.62 CURB AND GUTTER CONSTRUCTION; VIOLATIONS.

In the event that any person, partnership, or corporation within the corporate limits of this city shall construct a curb or gutter not in accordance with the regulations of this subchapter, that person, partnership, or corporation shall be guilty of an offense and shall be punished as hereinafter provided. All curbs and gutters not constructed in accordance with the regulations set forth in this subchapter are hereby declared to be a nuisance. The nuisance shall be abated by the Utilities Superintendent or other person designated by the Governing Body by removing the unlawful curb or gutter upon failure of the person, partnership, or corporation to do so after 3 days notice to remove the same shall have been given by the Utilities Superintendent or other agent of the Governing Body. Personal or written notice to remove the unlawful curb or gutter shall be deemed sufficient notice. The city may recover the costs of removing any unlawful curb or gutter by civil suit against the person, partnership, or corporation constructing the same.

(Neb. RS 17-567) (1986 Code, § 8-403) Penalty, see § 10.99

§ 94.63 DRIVEWAY APPROACHES.

(A) The Utilities Superintendent may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure, including pavement or sidewalks.

(B) The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of the owner or the agent of the owner, directing the repair or replacement of the driveway approach. If within 30 days of mailing the notice the property owner fails or neglects to cause the repairs or replacements to be made, the Utilities Superintendent may cause the work to be done and assess the cost upon the property served by the approach.

(Neb. RS 18-1748) (1986 Code, § 8-316) Penalty, see § 10.99

§ 94.64 EXCAVATIONS; PERMIT.

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the Utilities Superintendent authorizing the excavation.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 94.65 EXCAVATIONS; SAFETY; RESTORATION.

(A) In making excavations in the streets or alleys for the laying of service pipe or making repairs, the planks or paving stones and earth removed must be deposited in a manner that will occasion the least inconvenience to the public and provide for a passage of water along the gutters. Barricades and lights must be provided pursuant to § 150.025 of this code.

(B) In refilling the opening, the earth must be laid in layers of not more than 9 inches in depth and each layer thoroughly tamped with a mechanical tamper. The streets, sidewalks, and pavements must be restored to as good condition as previous to making the excavation, and all dirt, stones, and rubbish must be removed immediately after completing the work. Should any excavation in any street, alley, or highway be left open or unfinished for the space of 24 hours or more, or should the work be improperly done, or the rubbish not be removed, then the Utilities Superintendent shall have the right to finish or correct the work and the expense incurred shall be charged to the person or persons responsible for making the excavation, and shall be paid by that person or persons before the applicable utility is turned on. No opening of the streets for the tapping of mains will be permitted when the ground is frozen except by permission of the Utilities Superintendent.

(Neb. RS 17-567) (1986 Code, § 8-304) Penalty, see § 10.99

§ 94.66 DRIVING STAKES.

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Utilities Superintendent.

(1986 Code, § 8-305) Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557 and 17-567

§ 94.67 MIXING CONCRETE.

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

(1986 Code, § 8-306) Penalty, see § 10.99

§ 94.68 HARMFUL LIQUIDS.

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon the streets. (1986 Code, § 8-307) Penalty, see § 10.99

§ 94.69 EAVE AND GUTTER SPOUTS.

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the municipality where the dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the wastewaters that collect on the sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain the eave spouts into the alley.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-567

§ 94.70 HEAVY EQUIPMENT; SPECIAL TIRES.

It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected the curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of the curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing. Hereafter, it shall be unlawful to run, drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon the pavement, with wheels having cutting edges, with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb; provided that, where heavy vehicles, structures, and machines move along paved or unpaved streets, the Police Department is hereby authorized and empowered to choose the route over which the moving of those vehicles, structures, or machines will be permitted and allowed. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding 5/16 of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than 7/64 of an inch between November 1 and April 1; provided that school buses, mail carrier vehicles, and emergency vehicles shall be permitted to use metal or metal-type studs all year. It shall be permissible to use farm machinery with tires having protuberances which will not injure the streets. It shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid. It shall be permissible to use a rubber-tired crane with a fixed load when that vehicle will be transported on a state highway or on any road within the corporate limits of the municipality, the municipality has authorized a 1-day permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported, the vehicle is escorted by another

vehicle or vehicles assigned by the municipality, and the vehicle's gross weight does not exceed the limits set out in Neb. RS 60-6,288.

(1986 Code, § 8-308) Penalty, see § 10.99

Statutory reference:

Tire requirements, see Neb. RS 60-6,250

§ 94.71 PIPE LINES AND WIRES.

Poles, wires, gas mains, pipe lines, and other appurtenances of public service companies shall be located, or erected over, upon, or under the streets, alleys, and common grounds of the municipality. Application for location of the above shall be made to the City Council in writing. Approval by that body shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, conduits, gas mains, pipe lines, and wires shall at all times erect and locate their poles, wires, gas mains, pipe lines, and other appurtenances at those places and in that manner as shall be designated by the City Council. These poles, wires, gas mains, pipe lines, and other appurtenances shall be removed or relocated by the companies at their own expense when requested to do so by the City Council. Any such relocation shall be ordered by resolution of the City Council, and the Municipal Clerk shall notify any and all companies affected. The companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines, or other appurtenances to be removed. The City Council shall designate another location as closely as possible where the poles, wires, gas mains, pipe lines, or other appurtenances may be reset or placed. All poles, wires, gas mains, pipe lines, or other appurtenances shall be reset, placed, or erected in such a manner that they will not interfere with the water system, sewerage system, poles, wires, and mains of any public utility, adjacent buildings, or with travel on the public ways and property. Whenever possible, all pole lines, wires, gas mains, pipe lines, or appurtenances shall be confined to the alleys of the municipality.

(1986 Code, § 8-310) Penalty, see § 10.99

§ 94.72 SNOW, DEBRIS, AND THE LIKE ON STREET PROHIBITED.

(A) It shall be unlawful to place, move, push, dump, or deposit snow, sleet, ice, or mud or any trash, refuse, or debris, including leaves, grass, and branches, from private property onto the streets of the municipality.

(B) The removal of snow from privately owned residential premises shall be the sole obligation and responsibility of the owner, occupant, or tenant of such premises.

Penalty, see § 10.99

§ 94.73 GLASS; POINTED OBJECTS.

No person shall throw, cast, lay, or place upon any street any thorns, nails, tacks, glass, bottles, window glass, or other articles made of or containing glass; and in case of an accident causing the

breaking of any glass upon any street, the owner or person in charge of that glass, or the person responsible for the breakage, shall at once remove, or cause the same to be removed, from the street. (Neb. RS 39-311) (1986 Code, § 5-302) Penalty, see § 10.99

CHAPTER 95: TREES

Section

- 95.01 Definitions
- 95.02 Tree species to be planted
- 95.03 Spacing
- 95.04 Distance from curbs and sidewalks
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- 95.16 Interference with Park and Cemetery Board
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§ 95.01 DEFINITIONS.

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

DEAD OR DISEASED TREES.

(1) Trees of all species and varieties of elm, zelkova, and planera infected with the fungus *Ceratostomella ulmi*, as determined by laboratory analysis; or

(2) Trees, or parts thereof, of elm, zelkova, or planera in a dead or dying condition that may serve as breeding places for the European elm bark beetle, *Scolytus multistriatus*.

LARGE TREES. Trees which by their nature attain heights greater than 45 feet at maturity.

MEDIUM TREES. Trees which by their nature normally attain heights of from 25 to 45 feet at maturity.

PARK AND CEMETERY BOARD. The body provided in § 32.06 of this code.

PARK TREES. Trees, shrubs, bushes, and all other woody vegetation in public parks and all areas owned by the city, or to which the public has free access.

SMALL TREES. Trees which by their nature do not normally attain heights greater than 25 feet at maturity.

STREET TREES. Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.
(Neb. RS 17-555 and 18-801 *et seq.*) (1986 Code, § 8-501)

§ 95.02 TREE SPECIES TO BE PLANTED.

(A) The following species of trees, listed by common name, constitute the official street tree species for the city. No species other than those included in this list may be planted as street trees without permission of the Municipal Park and Cemetery Board:

(1) Small trees: lilac; Japanese tree; hawthorns; goldenrain tree; corktree, Amur; maple, Amur; pear, Bradford; sayeav magnolia; European mountain ash; plum, purpleleaf; redbud, eastern; crabapples, flowering;

(2) Medium trees: sweetgum; linden, littleleaf; linden, redmond; mountainash, European; European birch; paper birch; Bradford pear; and

(3) Large trees: ash, white; ash, green; coffeetree, Kentucky; hackberry; maple, sugar; maple, Norway; oak, bur; oak, northern red; honeylocust, thornless; sycamore, American; pagodatree, Japanese; linden, American; ginkgo; cut-leaf weeping birch; horse chestnut; black walnut; pin oak.

(B) Any request to plant street trees other than those listed above shall be by written request to the Park and Cemetery Board. The request shall be accompanied by the written recommendation of the County Agent's Office. The written permission of the Park and Cemetery Board as to variance shall not be effective until a majority of the City Council shall have approved the variance and the City Clerk shall have endorsed upon the written permission of the Park and Cemetery Board the approval of that variance by the City Council. The Park and Cemetery Board shall review and approve all tree planting plans for park trees as defined in § 95.01.
(1986 Code, § 8-502) Penalty, see § 10.99

§ 95.03 SPACING.

The spacing of street trees and park trees will be in accordance with the 3 species size classes listed in §§ 95.01 and 95.02, and no trees may be planted closer together than the following: small trees, 30

feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings approved by the Park and Cemetery Board.

(1986 Code, § 8-503) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.04 DISTANCE FROM CURBS AND SIDEWALKS.

(A) The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the tree species size classes listed in §§ 95.01 and 95.02, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet. Planting of trees between the street and sidewalk on Idaho-Bloom and Third Street, within the city, shall be forbidden except by the express written permission of the State Department of Roads.

(B) Street trees will be centered between the curb and sidewalk or aligned with existing street trees, except in special situations approved by the Park and Cemetery Board. In areas with no curbs or sidewalks, or less than 4 feet between the curb and sidewalk, no street trees shall be planted without written permission from the Park and Cemetery Board.

(1986 Code, § 8-504) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.05 DISTANCE FROM STREET INTERSECTIONS; DRIVEWAYS, AND ALLEYS.

No street tree or park tree shall be planted within 35 feet of any street intersection, measured from the point of nearest intersecting curbs or curb lines, or within 15 feet of any driveway or alley.

(Neb. RS 17-555) (1986 Code, § 8-505) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.06 DISTANCE FROM UTILITY LINES.

No trees or shrubs, other than those species specifically approved by the Park and Cemetery Board and the Utilities Superintendent, may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 8 lateral feet of any underground water line, sewer line, transmission line, or other utility line, wire, or main. No tree or shrub shall be planted within 10 feet of any fireplug. No tree or shrub shall be planted in a manner that will interfere with the operation or reading of utility meters.

(1986 Code, § 8-506) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.07 CARE AND REMOVAL.

(A) The municipality shall have the right to plant, prune, maintain, and remove street trees or park trees within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to ensure public safety, or to preserve or enhance the symmetry and beauty of the public grounds.

(B) The Park and Cemetery Board may remove or cause or order to be removed any street tree or park tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest.

(C) No person or property owner shall remove any live street tree or park tree for any reason without written permission of the Park and Cemetery Board. Utility companies may remove trees or parts thereof which are injurious to their utility lines, at their expense. This section does not prohibit the planting of street trees by abutting property owners, provided that the selection and location of those trees is in accordance with §§ 95.02 through 95.06 of this code.

(1986 Code, § 8-507) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.08 OBSTRUCTION; PRUNING, REMOVAL.

(A) All trees and shrubs within the municipality shall be pruned or removed when those trees or shrubs obstruct the light from any street lamp, obstruct the visibility of any traffic-control device or sign, obstruct the passage of pedestrians on sidewalks, obstruct the view of any street or alley intersection, or obstruct any utility line or pipe. The minimum clearance of any overhanging portion thereof shall be 12 feet over all streets and 8 feet over all sidewalks.

(B) The Park and Cemetery Board shall have the power and authority to prune or remove, or order to be pruned or removed, street trees and shrubs and any such trees or shrubs on private property. The Park and Cemetery Board shall notify by publication or personal service the owners of those trees or shrubs. Pruning or removal shall be done by the owners at their own expense within 5 days after the date of notification. In the event of failure of owners to comply with the notice, the municipality shall have the authority to prune or remove the trees or shrubs and assess the cost of that pruning or removal on the owner's property tax notice.

(Neb. RS 17-557.01) (1986 Code, § 8-508) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.09 DEAD OR DISEASED TREES.

(A) (1) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the municipality or within its 1-mile zoning jurisdiction.

(2) Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to

comply with the order to abate and remove the nuisance, the municipality may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other special taxes for improvements are levied or assessed.

(Neb. RS 17-555)

(B) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees on private property within the corporate limits of the municipality or within its 1-mile zoning jurisdiction. The provisions in division (A)(2) shall apply to such nuisances. For the purpose of carrying out the provisions of this section, the municipal police shall have the authority to enter upon private property to inspect the trees thereon.

(1986 Code, § 8-509) (Am. Ord. 8-503 - 8-517, passed 3-27-2000; Am. Ord. 1186, passed 2-22-2016) Penalty, see § 10.99

§ 95.10 DISEASED OR DYING TREES; NOTICE TO REMOVE; COST.

(A) If trees on private property are found to be infected or in a dead or dying condition, the Park and Cemetery Board shall give to the owner of the premises where the same are situated, written notice of the existence of the disease or of the dead or dying condition of those trees or parts thereof and require the removal and burning of the same under the direction and supervision of the Board. The notice shall also notify the owner of the premises that if the tree is not removed and burned after 5 days notice by publication or personal service, the city will proceed with the removal and burning of the same, and assess the cost thereof against the property in accordance with the provisions of this chapter.

(B) Service of this notice shall be by personal service where the owner of the premises is a resident of the city; where the owner is a nonresident of the city, notice shall be served by registered mail, addressed to the owner at his or her last known address as shown on the records in the office of the County Assessor, and by publication at least 1 time in a newspaper of general circulation in the city.

(C) After due notice has been served upon the owner of the premises, it shall thereupon become his or her duty to cause the tree to be removed and burned within 5 days under the direction and supervision of the Board. In lieu thereof, the person charged with the removal and burning may enter into an agreement with the city that the work be accomplished by the city at his or her expense and the expense and any interest shall be and are hereby declared to be a lien upon the property whereon that tree was situated, from the time the same becomes due until paid. The agreement shall be in the form as the City Attorney may prescribe to be filed in the office of the Register of Deeds of the county. If the owner fails, neglects, or refuses to remove or burn the tree, the Board may, 5 days after notice is served, enter upon that private property and proceed with the removal and burning of the same, and the cost thereof shall be assessed against the real estate in the manner hereinafter provided. The Board shall, not later than September 15 of each year, report the costs to the City Council, whereupon the City Council shall, at a regular Council meeting, by resolution, assess those costs together with any assessment expenses, against that real estate; provided that notice of the time of that meeting of the City Council shall be given in the manner provided by law.

(D) When the assessment has been made, it shall be certified by the City Clerk and shall be collected in the manner provided by law for the collection of general real estate taxes. The assessment shall be a lien upon the real estate from the date of assessment and shall become delinquent December 1 after the date of assessment, and shall draw interest at the rate of 7% per annum from that date until paid. It shall be the duty of the City Treasurer to collect the tax in the same manner and at the same time as general taxes, and the items of this tax shall be receipted for on the same receipt blanks as general real estate taxes.

(E) Infected tree or trees or parts thereof in a dead or dying condition on public lands shall be removed and burned by the Board within 5 days of its discovery that the condition exists, and the cost thereof shall be borne by the city without being assessed to the abutting property owner.

(F) Imposition of any penalty for a violation of this chapter shall not be construed as a waiver of the right of the city to collect the cost of removal of the tree or trees in accordance with the provisions of this chapter, where it is necessary for the city to remove the tree or trees in accordance with the provisions of this chapter.

(Neb. RS 17-123, 17-555, 17-557.01, 17-563.01, and 18-1720) (1986 Code, § 8-510) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.11 UNLAWFUL TREES; REMOVAL.

Any street tree that is planted in violation of this chapter after the adoption date of this section shall be deemed to be unlawfully planted and growing and shall, at the discretion of the City Council, be deemed to be a nuisance. When any such tree is declared to be a nuisance, the City Council shall order, with proper notice, the tree removed at the expense of the owner of the property adjacent to the space upon which the tree has been unlawfully planted. If the property owner fails or neglects to remove the tree, or cause the tree to be removed, the City Council shall order the same removed and assess the expense of such removal against the property adjacent to the space in which the tree is planted and growing. If the property owner is a non-resident of the county in which the property lies, the city shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

Statutory reference:

Authority, Neb. RS 17-555, 17-557, 17-557.01, and 18-1720

§ 95.12 WORK ORDERED BY THE CITY.

Written permission shall not be required for any tree, shrub, or hedge planting, pruning, spraying, or removing ordered or done by the city; however, all work of this type shall be done in conformance with the requirements of §§ 95.02 through 95.09 of this code.

(1986 Code, § 8-511) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.13 ABUSE OR MUTILATION.

Unless specifically authorized by the Park and Cemetery Board, no person shall intentionally damage, cut, carve, transplant, or remove any street tree or park tree; attach any rope, wire, nails, advertising poster, or other contrivance to those trees; allow any gaseous, liquid, or solid substance which is harmful to those trees to come in contact with them; or set fire or permit any fire to burn when the fire or heat thereof will injure any portion of those trees. The preceding restrictions do not apply to proper planting, staking, and guying practices.

(Neb. RS 17-555) (1986 Code, § 8-512) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.14 PROTECTION OF TREES.

(A) All street trees or park trees near any excavation or construction of any building, structure, or street work shall be guarded with a substantial fence, frame, or box not less than 4 feet high and 8 feet square, and all construction materials, soil, or other debris shall be kept outside the barrier.

(B) No person shall excavate any ditches, tunnels, trenches, or lay any drive within 10 feet of any street or park tree without first obtaining written permission from the Park and Cemetery Board.

(C) No person shall deposit, place, store, or maintain upon any public property of the municipality, any stone, brick, sand, oil, concrete, or other material which may impede the free passage of water, air, and fertilizer to the roots of any street tree or park tree, except by written permission of the Park and Cemetery Board.

(Neb. RS 17-555) (1986 Code, § 8-513) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.15 STUMPS.

All stumps of street and park trees shall be removed so that the top of the stump shall not project 6 inches above the surface of the ground.

(Neb. RS 17-555) (1986 Code, § 8-514) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.16 INTERFERENCE WITH PARK AND CEMETERY BOARD.

It shall be unlawful for any person to prevent, delay, or interfere with the Park and Cemetery Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning,

spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this chapter.

(Neb. RS 17-555) (1986 Code, § 8-515) (Am. Ord. 8-503 - 8-517, passed 3-27-2000) Penalty, see § 10.99

§ 95.17 REVIEW BY GOVERNING BODY.

The Governing Body of the city shall have the right to view the conduct, acts, and decisions of the Municipal Park and Cemetery Board. Any person may appeal any ruling or order of the Park and Cemetery Board to the Governing Body who may hear the matter and make final decision.

(Neb. RS 17-555) (1986 Code, § 8-516) (Am. Ord. 8-503 - 8-517, passed 3-27-2000)

CHAPTER 96: FAIR HOUSING

Section

- 96.01 Purpose
- 96.02 Definitions
- 96.03 Unlawful acts
- 96.04 Handicapped person; discriminatory practices prohibited; design and construction standards
- 96.05 Transaction related to residential real estate; discriminatory practices prohibited
- 96.06 Multiple listing and other services; discriminatory practices prohibited
- 96.07 Religious organization, private home, private club, or housing for older persons; restricting use not prohibited
- 96.08 Information availability

§ 96.01 PURPOSE.

The purpose of this chapter is to promote the general welfare of the residents of the city by endorsing the provisions of the Nebraska Fair Housing Act, Neb. RS 20-301 through 20-344, to the effect that there shall be no discrimination in the city in the acquisition, ownership, possession, or enjoyment of housing in accordance with the Nebraska Constitution, art. I, § 25. (Neb. RS 20-113) (1986 Code, § 10-1401) (Ord. 811, passed 7-30-1992)

§ 96.02 DEFINITIONS.

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

AGGRIEVED PERSON. Includes any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that he or she will be injured by a discriminatory housing practice that is about to occur.

COMMISSION. The Fair Housing Commission.

DWELLING. Any building, structure, or portion thereof which is occupied as or designed or intended for occupancy as a residence for 1 or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

FAMILIAL STATUS. One or more minors being domiciled with:

- (1) A parent or another person having legal custody of that individual; or
- (2) The designee of a parent or other person having legal custody, with written permission of the parent or other person.

HANDICAP. With respect to a person:

- (1) A physical or mental impairment, excluding the current illegal use of or addiction to a controlled substance as defined in Neb. RS 28-401, which substantially limits 1 or more of that person's major life activities;
- (2) A record of having such an impairment; or
- (3) Being regarded as having such an impairment.

PERSON. Includes 1 or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

RENT. Includes lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant.

RESTRICTIVE COVENANT. Any specification limiting the transfer, rental, or lease of any housing because of race, creed, religion, color, national origin, sex, handicap, familial status, or ancestry.

(Neb. RS 20-304 through 20-317) (1986 Code, § 10-1402) (Ord. 811, passed 7-30-1992)

§ 96.03 UNLAWFUL ACTS.

(A) Except as exempted by § 96.07 of this code, it shall be unlawful to:

- (1) Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status, or sex;
- (2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, familial status, or sex;

(3) Make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, handicap, familial status, or sex, or an intention to make any such preference, limitation, or discrimination;

(4) Represent to any person because of race, color, religion, national origin, handicap, familial status, or sex that any dwelling is not available for inspection, sale, or rental when the dwelling is in fact so available;

(5) Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status, or sex of a person seeking to purchase, rent, or lease any housing;

(6) Include in any transfer, sale, rental, or lease of housing any restrictive covenants or honor or exercise or attempt to honor or exercise any restrictive covenant pertaining to housing;

(7) Discharge or demote an employee or agent or discriminate in the compensation of an employee or agent because of that employee's compliance with this chapter or the Nebraska Fair Housing Act; and

(8) Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, handicap, familial status, or sex.

(B) The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any minor.

(Neb. RS 20-318) (1986 Code, § 10-1403) (Ord. 811, passed 7-30-1992) Penalty, see § 10.99

§ 96.04 HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS.

(A) Except as exempted by § 96.07 of this code, it shall be unlawful to:

(1) Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:

(a) The buyer or renter;

(b) Any person associated with the buyer or renter; or

(c) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available.

(2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:

- (a) That person;
- (b) Any person associated with that person; or
- (c) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available.

(B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DISCRIMINATION. Includes:

(a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services when those accommodations may be necessary to afford the handicapped person equal opportunity to use or enjoy a dwelling; and

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after September 1, 1991, a failure to design and construct the dwellings in such a manner that:

1. The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;

2. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

3. All premises within the dwellings contain the following features of adaptive design:

- a. An accessible route into and through the dwelling;
 - b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - c. Reinforcements in bathroom walls to allow later installation of grab bars;
- and

d. Kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.

(C) Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A117.1, shall satisfy the requirements of division (c)3. under the definition of “discrimination” in division (B) of this section.

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

COVERED MULTIFAMILY DWELLINGS. Include:

(a) Buildings consisting of 4 or more units if those buildings have 1 or more elevators;
and

(b) Ground floor units in other buildings consisting of 4 or more units.

(E) Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Neb. RS 20-319) (1986 Code, § 10-1404) (Ord. 811, passed 7-30-1992) Penalty, see § 10.99

**§ 96.05 TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE;
DISCRIMINATORY
PRACTICES PROHIBITED.**

(A) It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential real estate to discriminate against any person in making available such a transaction because of race, color, religion, sex, handicap, familial status, or national origin.

(B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE. Any of the following:

(a) The making or purchasing of loans or providing other financial assistance:

1. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
2. Secured by residential real estate.

(b) The selling, brokering, or appraising of residential real property.

(C) Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, handicap, familial status, or sex.

(Neb. RS 20-320) (1986 Code, § 10-1405) (Ord. 811, passed 7-30-1992) Penalty, see § 10.99

§ 96.06 MULTIPLE LISTING AND OTHER SERVICES; DISCRIMINATORY PRACTICES PROHIBITED.

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of this type of access, membership, or participation on account of race, color, religion, national origin, handicap, familial status, or sex.

(Neb. RS 20-321) (1986 Code, § 10-1406) (Ord. 811, passed 7-30-1992) Penalty, see § 10.99

§ 96.07 RELIGIOUS ORGANIZATION, PRIVATE HOME, PRIVATE CLUB, OR HOUSING FOR OLDER PERSONS; RESTRICTING USE NOT PROHIBITED.

(A) Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of a dwelling which it owns or operates for other than commercial purposes to persons of the same religion or from giving preferences to those persons unless membership in that religion is restricted on account of race, color, national origin, handicap, familial status, or sex.

(B) Nothing in this chapter shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of that lodging to its members or from giving preference to its members.

(C) Nothing in this chapter shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than 4 sleeping rooms to a person or family within his or her home.

(D) (1) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

(2) For the purpose of this division (D), the following definition shall apply unless the context clearly indicates or requires a different meaning.

HOUSING FOR OLDER PERSONS. Housing:

1. Provided under any state program that the Commission determines is specifically designed and operated to assist elderly persons or defined in the program;
 2. Intended for and solely occupied by persons 62 years of age or older; or
 3. Intended and operated for occupancy by at least 1 person 55 years of age or older per unit.
- (Neb. RS 20-322) (1986 Code, § 10-1407) (Ord. 811, passed 7-30-1992)

§ 96.08 INFORMATION AVAILABILITY.

The Municipal Clerk upon request shall make available to an aggrieved person, or any other person, information regarding the Nebraska Fair Housing Act and the Nebraska Equal Opportunity Commission without cost to that individual.

(Neb. RS 20-301 through 20-322) (1986 Code, § 10-1408) (Ord. 811, passed 7-30-1992)

CHAPTER 97: ANIMALS

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GENERAL PROVISIONS**§ 97.01 RUNNING AT LARGE.**

(A) 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, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in a manner so as to allow the animal to reach or pass into any public way. (1986 Code, § 6-201)

(B) It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property. (1986 Code, § 6-202)

Penalty, see § 97.99

Statutory reference:

Authority, see Neb. RS 17-547

§ 97.02 KEEPING OF ANIMALS, FOWL, AND WILDLIFE.

(A) Animals may be kept within the zoning jurisdiction of the city subject to the following restrictions.

(B) *Livestock allowed by District.* No livestock or large animals, including but not limited to chickens, sheep, goats, alpacas, cattle, horses, or swine shall be allowed to be kept or harbored within any zoning jurisdiction of the city except as allowed by divisions (C), (D), and (E) below and the following restrictions.

(1) *Agricultural (AG)*. On any piece of property zoned AG the keeping of all typical livestock shall be a permitted use, as per § 5.05.02 of the Superior Zoning Ordinance, provided that no livestock feedlot or yard for more than 50 animals shall be established. The keeping of hogs and other porcine animals shall not be allowed within .25 miles of the municipal boundary.

(2) *Transitional Agricultural (TA)*. On any piece of property zoned TA the keeping of all typical livestock shall be a permitted use, as per § 5.06.02 of the Superior Zoning Ordinance, excluding all porcine animals, such as hogs and provided that no livestock feedlot or yard for more than 50 animals shall be established.

(3) *Rural Estates (RE)*. On any piece of property zoned RE all typical livestock shall be allowed as a conditional accessory use, as per § 5.07.05 of the Superior Zoning Ordinance, excluding all porcine animals, such as hogs.

(4) *Low Density Residential (LDR)*. On any piece of property zoned LDR all typical livestock shall be allowed as a conditional accessory use, as per § 5.08.05 of the Superior Zoning Ordinance, excluding all porcine animals, such as hogs; all bovine animals, such as cows; and all male chickens (roosters) and other potentially audibly nuisance fowl.

(5) *Medium Density Residential (MDR)*. On any piece of property zoned MDR only fowl, such as chickens shall be allowed as a conditional accessory use, as per § 5.09.05 of the Superior Zoning Ordinance, provided no male chickens (roosters) and other potentially audibly nuisance fowl shall be permitted.

(6) *High Density Residential (HDR)*. On any piece of property zoned HDR no livestock shall be permitted.

(7) *All Commercial and Industrial*. No animals will be allowed to be kept in any commercial or industrial district unless it is an accessory use for any permitted or conditional use/business operated in a lawful manner and place.

(C) *Livestock densities*. Livestock allowed to be kept as a conditional accessory use within any zoning jurisdiction of the city shall be consistent with the densities established in § 7.14 of the Superior Zoning Ordinance.

(D) *Household pets*. The keeping of dogs, cats, rabbits, pigeons and household pets shall be permitted accessory use in residential and commercial districts subject to the regulations for kennels as defined in § 97.38 and § 97.39. For the purposes of this section, a **HOUSEHOLD PET** is any animal or creature kept inside a residential dwelling not outside, and in no event shall include any of the following: any live monkey (non-human primate), raccoon, skunk, fox, poisonous or dangerous insect or reptile, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state. The keeping of pigeons is subject to the following conditions:

Superior - General Regulations

(1) Such birds shall be banded with some form of identification.

(2) Such birds shall be confined in sanitary, secure structures subject to inspection and approval by the city.

(3) No more than 10 such birds shall be allowed on any 1 piece of property.

(4) Trained pigeons may be exercised under supervision of owner or trainer and be trained to recall on command.

(5) A permit for the keeping of such birds shall be obtained from the city.

(E) *Bees*. The keeping of bees, and associated beehives, shall be governed by the following regulations.

(1) In residential districts within the municipal limits of the city, 1 beehive shall be allowed as a conditional accessory use, as per Article 5: District Regulations of the Superior Zoning Ordinance.

(2) In residential districts outside the municipal limits of the city, 1 beehive per 10,000 square feet of lot area shall be allowed as a conditional accessory use, as per Article 5: District Regulations of the Superior Zoning Ordinance.

(3) In agricultural districts outside the municipal limits of the city, 1 beehive per 10,000 square feet of lot area shall be allowed as a permitted accessory use, as per Article 5: District Regulations of the Superior Zoning Ordinance.

(4) Within the municipal limits of the city, no beehive shall be kept within any required setback, not within 25 feet of any dwelling, or structure being used for residential purposes, and no beehive shall be kept in a required front yard or side street yard. The front of any beehive shall face away from the property line of the residential property closest to the beehive.

(5) Within the municipal limits of the city, a solid fence or dense hedge, known as a flyway barrier, at least 6 feet in height shall be placed along the side of the beehive that contains the entrance to the hive, and shall be located within 5 feet of the hive and shall extend at least 2 feet on either side of the hive. Such flyway barrier may not be required if all beehives are located at least 25 feet from all property lines and proper approval is granted by the Planning Commission.

(6) A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.

(7) No Africanized bees may be kept on any property located within the zoning jurisdiction of the city.

(F) *Livestock and other animals not specifically addressed.* Livestock and other animals not addressed in this section may be allowed to go through the proper approval process but will require both Planning Commission and City Council approval.

(G) *Facilities.* Facilities will be required as per § 7.14 of the Superior Zoning Ordinance.

(H) *Setbacks.* Setbacks will be required as per § 7.14 of the Superior Zoning Ordinance.

(I) *Screening.* Screening will be required as per § 7.14 of the Superior Zoning Ordinance.

(J) *Existing illegal non-conforming animal uses.* Grandfather rights shall be reviewed and potentially granted to all existing illegal non-conforming uses upon application to the city so that this section will not apply to any large livestock, animal, or fowl owned, kept or harbored prior to the original effective date of this section, subject to the following conditions:

(1) The permit application must be filed on or before a date 6 months after the effective date of this section. If no application is filed prior to the aforementioned deadline, no grandfather rights will apply to existing illegal non-conforming uses, and such uses will be required to comply with the regulations of this section.

(2) Only large livestock, animals, or fowl owned, kept, or harbored prior to June 2004 will be eligible to receive grandfather rights. Any animal that was owned, kept, or harbored after this date will be subject to all the regulations within this section. It will be the applicant's burden to show substantial evidence to the history and timeline of the animal's existence on the subject property.

(3) The application will be processed as a conditional use and will follow the procedures for a conditional use permit as laid out in Article 6 of the Superior Zoning Ordinance.

(4) The number of livestock, animals, or fowl and the district in which they exist are the only provisions of this section that the applicant will be allowed to seek grandfather rights/relief for, all other applicable regulations in this section shall apply. The Planning Commission shall determine the conditions of the grandfathering through the conditional use process.

(5) Any grandfather rights that are granted will not be transferable to any other property owner and only valid for the existing applicant/owner and will not continue with the property.

(K) *Additional regulations for the keeping of animals are as follows.*

(1) Any permit issued to keep any livestock or other animal or fowl shall be subject to revocation or suspension by recommendation of the Planning and Zoning Department and approval by the Planning Commission for any violations by the permittee of any of the provisions of this section or other ordinances of the city.

(2) Immature animals less than 6 months of age will not be calculated as part of the allowable permitted animal units, unless the number of immature animals exceeds the number of permitted adult animals. If a conditional use or other permit has not previously been attained for the keeping of animals, one will be required to keep or harbor such immature animals.

(3) If an applicant/owner has at least 20 acres of land outside the municipal limits, and such land is used for an agriculture purpose for which the zoning does not permit, the applicant can go through the conditional use process for the keeping of animals.

(4) A home occupation permit, as per § 7.10 of the Superior Zoning Ordinance, will be required if any income is generated from the keeping of animals.

(L) The restrictions contained in this section shall not apply to any pet store or veterinary services or other permitted use in a commercial or industrial zone, as long as it is a business operated in a lawful manner and place.

(Ord. 1085, passed 5-24-2004; Am. Ord. 1124, passed 7-26-2010) Penalty, see § 97.99

§ 97.03 WILD ANIMALS.

No wild animals may be kept within the corporate limits except animals kept for exhibition purposes by circuses and educational institutions.

Penalty, see § 97.99

§ 97.04 KILLING AND INJURING.

No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons, or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the animal.

Penalty, see § 97.99

§ 97.05 ENCLOSURES.

All pens, cages, sheds, yards, or any other area or enclosure for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the enclosure is located.

Penalty, see § 97.99

§ 97.06 ABANDONMENT, NEGLECT, AND CRUELTY.

(A) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDON. To leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health.

ANIMAL. Any vertebrate member of the animal kingdom. **ANIMAL** does not include an uncaptured wild creature or a livestock animal as defined in this section.

BOVINE. A cow, an ox, or a bison.

CRUELLY MISTREAT. To knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal.

CRUELLY NEGLECT. To fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health.

HUMANE KILLING. The destruction of an animal by a method which causes the animal a minimum of pain and suffering.

LAW ENFORCEMENT OFFICER. Any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of the municipality or any other city or village, or any other public official authorized by the municipality or any other city or village to enforce state or local animal control laws, rules, regulations, or ordinances.

LIVESTOCK ANIMAL. Any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds, or poultry.

OWNER or CUSTODIAN. Any person owning, keeping, possessing, harboring, or knowingly permitting an animal to remain on or about any premises owned or occupied by such person.

POLICE ANIMAL. 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 in the performance of his or her official enforcement duties.

(Neb. RS 28-1008)

(B) *Enforcement powers; immunity.*

(1) A law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) A law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner or custodian as prescribed in Neb. RS 29-422 to 29-429.

(3) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.
(Neb. RS 28-1012)

(C) *Violation.*

(1) A person who intentionally, knowingly, or recklessly abandons, cruelly neglects, or cruelly mistreats an animal is guilty of an offense.

(2) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties.

(Neb. RS 28-1009)

(Am Ord. 97.06, passed 12-12-2011; Am. Ord. 1186, passed 2-22-2016) Penalty, see § 97.99

Statutory reference:

Authority to prohibit cruelty to animals, see Neb. RS 17-138

Serious illness or injury to animal; death of animal; felony, see Neb. RS 28-1008 and 28-1009

§ 97.07 PITTING PROHIBITED.

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

BEARBAITING. The pitting of any animal against a bear.

COCKFIGHTING. The pitting of a fowl against another fowl.

DOGFIGHTING. The pitting of a dog against another dog.

PITTING. Bringing animals together in combat.
(Neb. RS 28-1004)

(B) (1) No person shall knowingly:

(a) Promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another;

(b) Receive money for the admission of another person to a place kept for such purpose;

(c) Own, use, train, sell, or possess an animal for such purpose; or

(d) Permit any act as described in this division (B)(1) to occur on any premises owned or controlled by him or her.

(2) No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in this section.

(Neb. RS 28-1005)

(C) (1) No person shall knowingly or intentionally own or possess animal fighting paraphernalia with the intent to commit a violation of this section.

(2) (a) For purposes of this section, except as provided in subdivision (C)(2)(b) of this section, **ANIMAL FIGHTING PARAPHERNALIA** means equipment, products, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of the pitting of an animal against another as defined in division (A) of this section. **ANIMAL FIGHTING PARAPHERNALIA** includes, but is not limited to, the following:

1. A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;

2. A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;

3. A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing place;

4. A fighting pit, which means a walled area designed to contain an animal fight;

5. A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;
6. A heel, which means any edged or pointed instrument designed to be attached to the leg of a fowl;
7. A boxing glove or muff, which means a fitted protective covering for the spurs of a fowl; and
8. Any other instrument commonly used in the furtherance of pitting an animal against another.

(b) **ANIMAL FIGHTING PARAPHERNALIA** does not include equipment, products, or materials of any kind used by a veterinarian licensed to practice veterinary medicine and surgery in this state.

(3) Any person violating division (C)(1) of this section is guilty of a Class I misdemeanor.
(Neb. RS 28-1005.04)
Penalty, see § 10.99

§ 97.08 POSSESSION BY NONRESIDENTS; TIME LIMITED.

It shall be unlawful for any person to maintain any animal or fowl within the city limits for more than 20 days while he or she is not a resident within the city limits.
Penalty, see § 97.99

§ 97.09 EQUINE, BOVINE; PROHIBITED ACTS.

(A) (1) No person shall intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest.

(2) The intentional tripping or causing to fall, or lassoing or roping the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing, or pulling contests.
(Neb. RS 54-911)

(B) (1) No person shall intentionally trip, cause to fall, or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest.

(2) The intentional tripping, causing to fall, or dragging of any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing, or pulling contests. (Neb. RS 54-912) Penalty, see § 10.99

DOGS AND CATS

§ 97.20 LICENSE AND TAX REQUIRED.

(A) Any owner of a dog over the age of 6 months within the municipality shall, within 30 days after acquisition of the dog, acquire a license for the dog annually by or before the May 1 of each year. Licenses shall be issued by the City Clerk upon payment of a license tax in the amount established by the governing body, plus the \$1.25 fee required under Neb. RS 54-603(3). It shall be unlawful for the owner of a dog to wrongfully and knowingly license an unspayed female dog as a male or spayed female dog if the governing body has established different license taxes for such dogs.

(B) The tax shall be delinquent from and after May 10. The owner of any dog brought into or harbored within the corporate limits subsequent to May 1 of any year shall be liable for payment of the dog tax, and such tax shall be delinquent if not paid within 10 days thereafter. The license shall not be transferable, and no refund will be allowed in case of death, sale, or other disposition of the licensed dog.

(C) 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, and sex of each dog owned by him or her. A certificate of rabies vaccination, effective for the ensuing year of the license, shall be presented when application for a license is made, and no license or tag shall be issued until the certificate is shown.

(1986 Code, § 6-101) (Am. Ord. 931, passed 3-10-1997; Am. Ord. 1186, passed 2-22-2016) Penalty, see § 97.99

§ 97.21 DOG GUIDES; LICENSE TAX EXEMPTION.

Every service animal shall be licensed as required by this chapter, but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of the required license tax.

(Neb. RS 54-603) (1986 Code, § 6-101.01) (Ord. 986, passed 8-24-1998; Am. Ord. 1186, passed 2-22-2016)

§ 97.22 LICENSE TAGS.

(A) (1) Upon the payment of the license tax, the Clerk shall issue to the owner of the dog a license certificate and a metallic tag, which shall be valid until April 30 following such licensing. The Clerk shall issue tags of a suitable design that are different in appearance each year.

(2) The metallic tag and the rabies tag shall be properly attached to the collar or harness of the dog. It shall be unlawful for the owner of any dog to permit or allow such dog to wear any licensing identification other than the metallic tag issued by the Clerk.

(3) If a license tag is lost, upon satisfactory evidence that the original tag was issued in accordance with the provisions of this section, the 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 established by the governing body for each duplicate or new tag so issued.

(B) All license taxes, fees, and other collections shall be credited to the General Fund of the city, except as otherwise provided by Neb. RS 54-603.
(1986 Code, § 6-103) (Am. Ord. 931, passed 3-10-1997; Am. Ord. 1186, passed 2-22-2016) Penalty, see § 97.99

§ 97.23 WRONGFUL LICENSING.

It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow the dog to wear any license, metallic tag, or other municipal identification than that issued by the City Clerk for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unneutered dog with a license prescribed for a neutered dog.

Penalty, see § 97.99

§ 97.24 REMOVAL OF TAGS.

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

Penalty, see § 97.99

§ 97.25 OWNER DEFINED.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

OWNER. Any person who shall harbor or permit any dog or cat to be for 10 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 that dog or cat and shall be deemed to be liable for all penalties herein prescribed. (1986 Code, § 6-105)

§ 97.26 PROCLAMATION; MUZZLING OR CONFINEMENT.

(A) It shall be the duty of the Mayor, whenever in his or her opinion the danger to the public safety from rabid dogs or cats is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog or cat to muzzle the same, or to confine it for a period of not less than 30 days or more than 90 days from the date of the proclamation, or until the danger is passed. The dogs or cats may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the owner may reside. Upon issuance of the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog or cat to confine the same as herein provided.

(B) Any dog or cat suspected of being afflicted with rabies, or any dog or cat not vaccinated in accordance with the provisions of this chapter, 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 not less than 10 days. If, upon examination by a veterinarian, the dog or cat 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 or cat, it shall be disposed of in accordance with the provisions herein. If the owner of the dog or cat has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least 10 days, at which time the dog or cat shall be examined by a licensed veterinarian at the owner's expense. If no signs of rabies are observed, the dog or cat may be released from confinement.

(Neb. RS 17-526) (1986 Code, § 6-106) Penalty, see § 97.99

§ 97.27 RUNNING AT LARGE.

(A) It shall be unlawful for the owner of any dog or cat to allow that dog or cat to run at large at any time within the corporate limits of the municipality. All dogs or cats found running at large upon the streets and public grounds of the municipality are hereby declared a public nuisance. It shall be the duty of the municipal police to cause any dog or cat found to be running at large within the municipality to be taken to and impounded or killed in a local licensed veterinarian facility.

(B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

RUNNING AT LARGE. Any dog or cat 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.

(C) In the event the dog or cat is licensed, the police shall immediately notify the licensed owner that they have impounded the dog or cat, and the owner shall have 72 hours in which to reclaim the dog or cat. The owner may reclaim the dog or cat upon payment of a \$5 penalty and expenses for permitting the dog or cat to run at large. Any dog or cat remaining unclaimed for a period of 72 hours shall be disposed of as ordered by the Police Chief.

(1986 Code, § 6-107) (Am. Ord. 931, passed 3-10-1997; Am. Ord. 6-107, passed 6-17-2003) Penalty, see § 97.99

§ 97.28 AUTHORITY TO KILL.

The municipal police 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. RS 17-526) (1986 Code, § 6-108)

§ 97.29 FEMALES 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.

Penalty, see § 97.99

§ 97.30 VICIOUS ANIMALS.

It shall be unlawful for any person to own, keep, or harbor any dog or cat of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite, without that dog or cat being securely held by a chain not over 6 feet long. If any vicious or dangerous dog or cat is otherwise held, confined, or allowed to run at large, the municipal police shall have the authority to put the dog or cat to death.

(Neb. RS 17-526) (1986 Code, § 6-109) Penalty, see § 97.99

§ 97.31 LIABILITY OF OWNER.

It shall be unlawful for any person to allow a dog owned, kept, or harbored by the owner, 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.

Penalty, see § 10.99

Statutory reference:

Joint liability, see Neb. RS 54-602

Statutory liability, see Neb. RS 54-601

§ 97.32 INTERFERENCE WITH POLICE.

It shall be unlawful for any person to hinder, delay, or interfere with any municipal police officer who is performing any duty enjoined upon him or her by the provisions of this chapter, or to break open, or in any manner directly or indirectly aid, counsel, or advise the breaking open of the animal shelter,

any ambulance wagon, or other vehicle used for the collecting or conveying of dogs and cats to the shelter.

(Neb. RS 28-906) (1986 Code, § 6-110) Penalty, see § 97.99

§ 97.33 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 cat, 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, that this section shall not apply to municipal police officers acting within their power and duty.

(Neb. RS 28-1002) (1986 Code, § 6-111) Penalty, see § 97.99

§ 97.34 LOUD AND OFFENSIVE ANIMALS.

It shall be unlawful for any person to own, keep, or harbor any dog or cat which by loud, continued, or frequent barking, howling, yelping, or meowing 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 municipality. Upon the written complaint of any affected persons filed with the Municipal Clerk, that any dog or cat owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section, the municipal police shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to silence and restrain that dog or cat. The provisions of this section shall not be construed to apply to the animal hospital.

(Neb. RS 17-526) (1986 Code, § 6-112) Penalty, see § 97.99

§ 97.35 FIGHTING.

It shall be unlawful for any person, by agreement or otherwise, to set dogs or cats to fighting, or by any gesture or word to encourage the same to fight.

(Neb. RS 17-526) (1986 Code, § 6-113) Penalty, see § 97.99

§ 97.36 IMPOUNDING.

It shall be the duty of the municipal police to capture, secure, and remove in a humane manner to the animal hospital any dog or cat violating any of the provisions of this chapter. The dogs or cats so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog or cat shall be kept and maintained at the pound for a period of not less than 3 days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the animal hospital within 24 hours after impoundment as public notification of the impoundment.

Any dog or cat may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee of \$5 payable to the City Treasurer and daily board fee as set by the animal hospital and on file in the office of the Municipal Clerk. The owner shall then be required to comply with the licensing and rabies vaccination prior to release of the animal. If the dog or cat is not claimed at the end of the required waiting period after public notice has been given, the animal hospital may dispose of the dog or cat in accordance with the applicable rules and regulations pertaining to the same; provided, that if, in the judgment of the municipal police, a suitable home can be found for any such dog or cat within the municipality, that dog or cat shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this chapter. The municipality shall acquire legal title to any unlicensed dog or cat impounded in the animal hospital for a period longer than the required waiting period after giving notice. All dogs and cats shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for the dog or cat.

(Neb. RS 17-526, 17-548 and 71-4408) (1986 Code, § 6-114) Penalty, see § 97.99

§ 97.37 SHELTER; LEGAL DESTRUCTION.

The municipal animal shelter shall be safe, suitable, and conveniently located for the impounding, keeping, and destruction of dogs. The shelter shall be sanitary, ventilated, and lighted.

§ 97.38 KENNEL DEFINED.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

KENNEL. Includes any establishment for the raising, training, boarding, or selling of dogs, cats, birds, mice, rats, or other small animals for hire or profit.
(1986 Code, § 6-115) (Am. Ord. 931, passed 3-10-1997)

§ 97.39 KENNEL; LICENSE REQUIRED.

It shall be unlawful to operate a kennel anywhere in the city or the 1 mile zoning jurisdiction of the city without first securing a permit from the City Planning Commission and a license from the Municipal Clerk. The party seeking the permit and license shall make written application to the City Planning Commission. In the event the Planning Commission shall allow the kennel to exist within the zoning limits of the city, it shall set forth whatever regulations for the kennel it deems appropriate. The permit and license shall be on an annual basis and may be revoked for violation of the standards and regulations set forth by the City Planning Commission after due notice and hearing to the kennel owner or operator. The annual fee for the kennel license shall be \$100.

(1986 Code, § 6-116) Penalty, see § 97.99

§ 97.40 HUMANE AND SANITARY CONDITIONS.

Every place where dogs or cats are housed shall be kept in a clean and sanitary condition and no refuse or waste material shall be allowed to remain thereon for more than 24 hours. All animals shall be humanely treated and any animal having any disease shall be properly isolated and treated. All kennel operators shall be bound to all the rules and regulations set forth in this chapter. (1986 Code, § 6-117) (Am. Ord. 931, passed 3-10-1997) Penalty, see § 97.99

§ 97.41 NUMBER OF DOGS AND CATS LIMITED.

(A) No owner or keeper of any dogs or cats shall keep, harbor, or maintain in, about, or upon the premises occupied by that owner as his or her residence, more than 4 dogs and cats at any 1 time. Provided, however, the offspring of any dog or cat shall not count toward the maximum number of dogs or cats allowed, for a period of 4 months after the birth of the offspring.

(B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

OWNER OR KEEPER. Includes the head of any family and all family members and guests, it being the intention of this section to limit the number of dogs and cats to 4 per household. (Ord. 1073, passed 7-14-2003) Penalty, see § 97.99

§ 97.42 DISPOSAL OF DOG WASTE.

(A) Any person having custody or control of a dog shall have the responsibility for the disposal of feces or manure of the dog in a sanitary manner. The provisions of this section shall not apply to law enforcement officers while using the dog to perform law enforcement functions or rescue activity.

(B) It shall be unlawful for any person who is in control of any dog to cause or to permit any dog to be on any property, public or private, that is not owned or possessed or under the control of such person and to allow said dog to deposit fecal matter on the property described herein; unless such person has in his or her immediate possession a device for the removal of said fecal matter and for such person to immediately remove excrement left by such dog to an appropriate closed container.

(C) Any dog owner or person in custody or control of a dog who fails to comply with any of the provisions of this section shall be guilty of an infraction and subject to fines as set forth in § 97.99. (Ord. 1120, passed 2-8-2010)

DANGEROUS DOGS**§ 97.50 DEFINITIONS.**

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

ANIMAL CONTROL AUTHORITY. An entity authorized to enforce the animal control laws of a municipality, and includes any local law enforcement agency or other agency designated by the city to enforce the animal control laws of the city.

ANIMAL CONTROL OFFICER. 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.

DANGEROUS DOG.

(1) Any dog that, according to the records of an animal control authority:

- (a) Has killed a human being;
- (b) Has inflicted injury on a human being that requires medical treatment;
- (c) Has killed a domestic animal without provocation; or

(c) Has been previously determined to be a “potentially dangerous dog” by an animal control authority, the owner has received notice of that determination from an animal control authority or an animal control officer, and the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

(2) A dog shall not be defined as a ***DANGEROUS DOG*** if the individual was tormenting, abusing, or assaulting the dog at the time of the injury or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog.

(3) A dog shall not be defined as a ***DANGEROUS DOG*** if the injury, damage or threat was sustained by an individual who, at the time, was committing a willful trespass as defined in Neb. RS 20-203, 28-520, or 28-521, was committing or any other tort upon the property of the owner of the dog, was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

(4) A dog shall not be defined as a **DANGEROUS DOG** if the dog is a police animal as defined in Neb. RS 28-1008.

DOMESTIC ANIMAL. 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.

MEDICAL TREATMENT. Treatment administered by a physician or other licensed health care professional that results in sutures or surgery or treatment for one or more broken bones.

OWNER. Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

POTENTIALLY DANGEROUS DOG.

(1) Any dog that when unprovoked:

(a) Inflicts an injury on a human being that does not require medical treatment; or

(b) Injures a domestic animal; or

(c) Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack.

(2) Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.
(Neb. RS 54-617) (1986 Code, § 6-118) (Ord. 777, passed 11-27-1989)

§ 97.51 RESTRAINT REQUIRED.

(A) A dangerous dog that has been declared as such shall be spayed or neutered and implanted with a microchip identification number by a licensed veterinarian within 30 days after such declaration. The cost of both procedures is the responsibility of the owner of the dangerous dog. Written proof of both procedures and the microchip identification number shall be provided to the animal control authority after the procedures are completed.

(B) No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash.

(C) Except as provided in division (D) of this section or for a reasonable veterinary purpose, no owner of a dangerous dog shall transport such dog or permit such dog to be transported to another county, city, or village in this state.

(D) An owner of a dangerous dog may transport such dog or permit such dog to be transported to another county, city, or village in this state for the purpose of permanent relocation of the owner if the owner has obtained written permission prior to such relocation from the animal control authority of the county, city, or village in which the owner resides and from the county, city, or village in which the owner will reside. Each animal control authority may grant such permission based upon a reasonable evaluation of both the owner and the dog, including if the owner has complied with the laws of this state and of the county, city, or village in which he or she resides with regard to dangerous dogs after the dog was declared dangerous. An animal control authority shall not grant permission under this section if the county, city, or village has an ordinance or resolution prohibiting the relocation of dangerous dogs. After the permanent relocation, the animal control authority of the county, city, or village in which the owner resides shall monitor the owner and such dog for a period of at least 30 days but not to exceed 90 days to ensure the owner's compliance with the laws of this state and of such county, city, or village with regard to dangerous dogs. Nothing in this division shall permit the rescindment of the declaration of dangerous dog.

(Neb. RS 54-618) (1986 Code, § 6-119) (Ord. 777, passed 11-27-1989) Penalty, see § 97.99

§ 97.52 CONFINEMENT.

(A) No person, firm, partnership, limited liability company, or corporation shall own, keep, or harbor or allow to be in or on any premises occupied by him, her, or it or under his, her, or its charge or control any dangerous dog without such dog being confined so as to protect the public from injury.

(B) 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 least 1 foot. The pen or structure shall also protect the dog from the elements. The pen or structure shall be at least 10 feet from any property line of the owner. The owner of a dangerous dog shall post warning signs on the property where the dog is kept that are clearly visible from all areas of public access and that inform 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. RS 54-619) (1986 Code, § 6-120) (Ord. 777, passed 11-27-1989) Penalty, see § 97.99

§ 97.53 FAILURE TO COMPLY.

(A) Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this subchapter. 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 subchapter.

(B) 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.

(C) (1) Any owner whose dangerous dog inflicts on a human being a serious bodily injury as defined in Neb. RS 28-109 is guilty of a Class I misdemeanor for the first offense, whether or not the same dangerous dog is involved.

(2) It is a defense to a violation of division (E)(1) of this section that the dangerous dog was, at the time of the infliction of the serious bodily injury, in the custody of or under the direct control of a person other than the owner or the owner's immediate family.

(Neb. RS 54-620, 54-621, 54-622.01) (1986 Code, § 6-121) (Ord. 777, passed 11-27-1989) Penalty, see § 97.99

§ 97.54 EFFECT OF PRIOR CONVICTION.

If a dangerous dog of an owner with a prior conviction under this subchapter attacks or bites a human being or domestic animal, in addition to any other penalty, 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.

(Neb. RS 54-624)

§ 97.99 PENALTY.

(A) Any person who shall violate any provision of this chapter for which no other penalty is provided shall, upon conviction, be subject to penalties as set forth in § 10.99 of this code.

(B) Upon conviction for a first offense against § 97.25 of this code, the fine shall not exceed \$25. For second and subsequent offenses, the fine shall be not less than \$50 nor in excess of \$75.

(1986 Code, § 6-107) (Ord. 6-107, passed 6-17-2003)