

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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GENERAL PROVISIONS

§ 90.01 RUNNING AT LARGE.

It shall be unlawful for the owner, keeper or harbinger of any animal, or any person having the charge, custody or control thereof, to permit a horse, mule, cow, sheep, goat, swine or other animal to be drive 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 such a manner as to allow such animal to reach or pass into any public way. (Neb. RS 17-547) (1999 Code, § 6-201) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.02 ABANDONMENT, NEGLECT AND CRUELTY.

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

ABANDON. To leave any animal 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, except humans. The term shall not include an uncaptured wild creature.

CRUELLY MISTREAT. To knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald or otherwise set 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 public official authorized by the municipality to enforce state or local animal control laws, rules, regulations or ordinances. (1999 Code, § 6-202)

(B) *Law enforcement officer; powers; immunity.*

(1) Any 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) Any 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 as prescribed by law.

(3) Any law enforcement officer acting under this section shall not be liable for damages to property if such damage is not the result of the officer's negligence
(1999 Code, § 6-203)

(C) *Penalty.* A person commits cruelty to animals if he or she abandons, cruelly mistreats or cruelly neglects an animal.
(Neb. RS 28-1008, 28-1009, 28-1012) (1999 Code, § 6-204) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016)

§ 90.03 ENCLOSURES.

All pens, cages, sheds, yards or any other area or enclosure for the confinement for 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 said enclosure is located.
(1999 Code, § 6-205) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016)

§ 90.04 DANGEROUS ANIMALS PROHIBITED.

(A) It shall be unlawful for any person or persons to own, keep or harbor any dangerous animal with the corporate limits of the city, except that this section shall not be construed to prohibit a public zoo, circus, humane society or carnival from displaying dangerous animals as exhibits, or to prohibit any wild life rescue organizations with appropriate permits from the Nebraska Game and Parks Commission from rehabilitating or sheltering dangerous animals.

(B) It shall be unlawful for any person or persons to sell, give away, transfer or import into the city, any dangerous animal as defined in this section, excluding a public zoo from doing business with another public zoo.

(C) In the event that any law enforcement officer determines a dangerous animal is being owned, kept or harbored by any person in violation of this section, said law enforcement officer may have such person or persons prosecuted for such violation and shall order such person or persons to remove said dangerous animal from the city, or destroy it. Such order shall be contained in a written notice to remove or destroy the dangerous animal within ten days of receipt of said notice and shall be delivered in person

or by certified mail, return receipt requested. If the owner or person keeping or harboring such unusual animal after the expiration of ten days from receipt of said notice, and no appeal taken to the Mayor and City Council, the law enforcement officer shall have such dangerous animal destroyed.

(1999 Code, § 6-206) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.05 DANGEROUS ANIMAL DEFINITIONS.

For the purpose of §§ 90.04 through 90.07, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS ANIMAL. Any animal which is not naturally tamed or gentle, or which is of a naturally wild disposition, or which is capable of inflicting serious injury upon or killing human beings and having known tendencies, individually or as a species, to do so, or which because of its size or other characteristics would constitute a danger to human life or property, including any dog which has, without provocation, bitten any human within the prior 12 months, unless such dog is confined behind a fence from which it cannot escape or is securely chained, in the back of the owner's property, in such a manner that the dog cannot range within five feet of the property line of the owner or within ten feet of the public sidewalk, and also including, but not limited to, the following animals which shall be deemed to be dangerous per se: bears, wolves, lions, ferrets, poisonous snakes and spiders, alligators, crocodiles, anacondas, pythons, boa constrictors and piranhas.

LAW ENFORCEMENT OFFICER. Any member of the State Patrol, the County Sheriff or Deputy Sheriff, or any other public official authorized by the city to enforce state or local animal control laws, rules, regulations or ordinances.

OWNER. Any person who shall harbor or permit any animal, specifically including dog(s) or cats(s) to be, for ten days or more, or let the same habitually remain to be fed for a period of ten days or more in or about his or her house, store, or enclosure, shall be deemed the owner and possessor of such animal and shall be liable for all penalties imposed for violation of this code.

(1999 Code, § 6-207) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016)

§ 90.06 PROHIBITION OF DANGEROUS ANIMAL.

(A) Dangerous animals are prohibited within the city limits.

(B) In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, such animal may, in the discretion of the Mayor or his or her designee, or a law enforcement officer, be destroyed if it cannot be confined or captured, thereby creating a hazard to life or property. The city, its officers, employees

and designees shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall there be a duty to notify the owner of such animal prior to its destruction. (1999 Code, § 6-208) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

LICENSE

§ 90.20 LICENSE REQUIRED; EXCEPTIONS.

(A) Any person who shall own, keep or harbor any dog or cat over the age of six months within the city shall require a license from the city, annually, for each dog and cat.

(B) The licensing requirements shall not apply to any dog or cat belonging to any person while traveling through the municipality or to any person who stays in the city with such dog or cat for a period of less than 30 days.
(Ord. 859, passed 4-4-2016)

§ 90.21 RABIES SHOT REQUIRED.

(A) A certificate that a dog or cat to be licensed under the provisions of this section has had a rabies shot effective for the license year shall be presented when such license is applied for. The certificate shall state that such rabies shot was administered to the dog or cat in accordance with state law.

(B) Before any license is issued under this section, the applicant shall pay to the City Clerk the licensing fee as established by resolution by the governing body and shall submit a license application identifying the name, address and telephone number of the owner and the name, breed, color and sex of the animal being licensed. A picture of such animal shall accompany the application.

(C) Together with the license receipt, the City Clerk shall issue to each person obtaining a license under the provisions of this section, a tag made from some suitable material bearing the license number shown on the license receipt and the year of issuance. The tag shall be securely attached to a collar or harness of durable material and worn by such dog or cat at all times.

(D) The license shall expire on December 31 of each year.

(E) No person owning, keeping, harboring or maintaining any dog or cat shall permit or allow such dog or cat to wear any license tag other than the identical one issued by the City Clerk for such dog or cat and for the licensing year for which it was issued.

(F) No person shall remove or cause to be removed, the collar, harness or tag from any licensed dog or cat without the consent of the owner of such animal.
(Ord. 859, passed 4-4-2016)

§ 90.22 TRANSIENT OR SHOW DOGS, CATS OR FERRETS.

Owners of dogs, cats or ferrets who are temporarily visiting a specific rabies control jurisdiction with their dog(s), cat(s) or ferret(s) or who are exhibiting a dog, cat or ferret in competition, must carry with them and be prepared, upon demand of a legal authority, to present a current certificate of rabies vaccination for each dog, cat or ferret.
(1999 Code, § 6-104) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.23 MANAGEMENT OF ANIMALS THAT BITE HUMANS.

Anyone knowing of an animal bite to a human shall immediately report the bite to the City Clerk or the Thayer County Sheriff.

(A) *Vaccinated dogs, cats and ferrets.*

(1) (a) A healthy dog, cat or ferret that is currently vaccinated against rabies and that bites or reportedly bites a human will be examined by a licensed veterinarian, who will determine the animal's health status. If no signs of illness compatible with rabies are detected, the animal will be quarantined under such conditions as are outlined in an official quarantine order issued by the Animal Control Authority or Public Health Official and observed for a period of ten days from the date of the bite. Instead of being quarantined, the animal may be humanely euthanatized and tested for rabies in an approved laboratory.

(b) Quarantined animals may be treated by a veterinarian, but rabies vaccine should not be administered to the animal until the quarantine period is complete. At the end of the quarantine period, the dog, cat or ferret will be reexamined by a veterinarian. The results of the veterinary examinations will be documented and communicated to the Animal Control Authority, the Public Health Official and the owner.

(2) If, at the end of the quarantine period, the dog, cat or ferret shows no signs of illness compatible with rabies, it may be released from quarantine with the approval of the Animal Control Authority or the Public Health Official.

(3) If at any time during quarantine or upon examination, the dog or cat shows signs of illness compatible with rabies, the animal shall be humanely euthanatized and tested for rabies in an approved laboratory at the discretion of Animal Control Authority or the Public Health Official after conferring with the examining veterinarian.

(B) Dogs, cats and ferrets that are not currently vaccinated against rabies.

(1) A dog, cat or ferret that is not currently vaccinated against rabies, that bites or reportedly bites a human will be considered a rabies suspect and will be seized by the Animal Control Authority and quarantined under such conditions as are outlined in an official quarantine order issued by the Animal Control Authority or Public Health Official. The quarantine shall be conducted under the supervision of a veterinarian, for a period of not less than ten days from the date of the bite. Instead of being quarantined, the animal may be humanely euthanatized and tested for rabies in an approved laboratory. Quarantined animals may be treated by a veterinarian, but rabies vaccine should not be administered to the animal until the quarantine period is complete.

(2) The rabies suspect dog, cat or ferret will be examined by a licensed veterinarian at the beginning and at the end of the quarantine period to determine its health status. The results of the examination will be recorded and communicated to the Animal Control Authority, the Public Health Official and the owner.

(3) If at any point during the quarantine period or upon examination, the dog, cat or ferret shows signs of illness compatible with rabies, the Animal Control Authority or the Public Health Official will order the immediate humane euthanasia and rabies testing of the quarantined animal in an approved laboratory after conferring with the examining veterinarian.

(4) If at the end of the quarantine period the dog, cat or ferret shows no signs of illness compatible with rabies, it may be released from quarantine with the approval of the Animal Control Authority or the Public Health Official. Prior to its release, the dog, cat or ferret will be vaccinated against rabies at the owner's expense. Alternatively, the dog, cat or ferret will be vaccinated within 72 hours of release. The owner will pay to the Animal Control Authority a prescribed rabies vaccination deposit that will be reimbursed upon the presentation of proof of rabies vaccination by a private veterinarian.

(C) Other animals.

(1) Animals, other than dogs, cats or ferrets, that bite or reportedly bite a human will, at the discretion of the Public Health Official, be treated according to the circumstances of exposure, the species, and the presence of rabies in the area. The pathogenesis and length of incubation and virus shedding periods of rabies in those other animals is unknown.

(2) The animal may, at the discretion of the Public Health Official, be seized by the Animal Control Authority and immediately euthanized for rabies testing in an approved laboratory. Reports of the laboratory test will be provided to the Animal Control Authority, the Public Health Official, the bite victim and the submitting veterinarian.

(1999 Code, § 6-105) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.24 ANIMALS THAT ARE BITTEN BY OR POTENTIALLY EXPOSED TO RABID OR SUSPECT RABID ANIMALS.

(A) Dogs, cats or ferrets currently vaccinated against rabies.

(1) A currently vaccinated dog, cat or ferret that is bitten by, or otherwise potentially exposed to a rabid or suspect rabid animal will be re-vaccinated immediately and placed in isolation under observation for 45 days or euthanized.

(2) At the end of the isolation period, the dog, cat or ferret will be examined by a veterinarian who will report the results of the examination to the Animal Control Authority or Public Health Official.

(3) If the examination determines that the dog, cat or ferret is free of signs of illness compatible with rabies, it may be released from isolation with the approval of the Animal Control Authority or the Public Health Official.

(4) If, at any point during the isolation period or upon examination, the dog, cat or ferret shows signs of illness compatible with rabies, the Animal Control Authority or the Public Health Official will order the immediate humane euthanasia and rabies testing in an approved laboratory of the animal after conferring with the examining veterinarian.

(B) Dogs, cats or ferrets that are unvaccinated or not currently vaccinated against rabies.

(1) A dog, cat or ferret that is not currently vaccinated against rabies and is bitten by or otherwise potentially exposed to a rabid or suspect rabid animal shall be euthanized immediately.

(2) If the owner is unwilling to consent to euthanasia, the animal shall be seized by the Animal Control Authority and impounded at the owner's expense for six months in strict isolation, under such conditions as are outlined in an official isolation order issued by the Animal Control Authority. If the animal shows no signs of rabies at the end of five months, it will be vaccinated against rabies at that time.

(3) At the end of the six-month impoundment, the dog, cat or ferret will be examined by a licensed veterinarian who will report the results of the examination to the Animal Control Authority or Public Health Official.

(4) If the examination determines that the dog or cat or ferret is free of signs of illness compatible with rabies, it may be released from impoundment with the approval of the Public Health Official.

(5) If, at any point during the impoundment period or upon examination, the dog, cat or ferret shows signs of illness compatible with rabies, the Animal Control Authority or the Public Health Official will order the immediate humane euthanasia and testing of the impounded animal after conferring with the examining veterinarian.

(C) *Livestock.*

(1) Currently vaccinated livestock bitten by or otherwise potentially exposed to rabid or suspect rabid animal will be re-vaccinated immediately and isolated under observation for 45 days or be euthanized.

(2) Unvaccinated livestock should be slaughtered immediately. If the owner is unwilling to have this done, the animal will be kept in strict isolation for six months under such conditions as are outlined in an official isolation order issued by the Animal Control Authority.

(D) *Other animals.* Any animal, other than a dog, cat, ferret or livestock that is bitten by or otherwise potentially exposed to a rabid or suspect rabid animal should be euthanized immediately. Animals maintained in USDA-licensed research facilities or accredited zoological parks that are exposed or potentially exposed to rabies shall be evaluated on a case-by-case basis by the Animal Control Authority or the Public Health Official.

(E) *Testing of suspect rabid animals.*

(1) If a suspect rabid animal is available for testing, an animal that was bitten by or otherwise potentially exposed to the suspect rabid animal will be isolated pending the rabies testing result on the suspect animal.

(2) If the testing results are negative, the bitten or otherwise potentially exposed animal shall be released with the approval of the Animal Control Authority or Public Health Official.

(1999 Code, § 6-106) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.25 IMPOUNDMENT.

(A) Any dog or cat found in violation of any of the provisions of this chapter may be seized and impounded by any police officer or designated agent of the Police Department. Impoundment may be in any animal shelter designated by the Police Department.

(B) The owner of any dog or cat impounded under any of the provisions of this chapter, if his or her identity and location can be determined and contact with such owner made by reasonable means, shall, within 24 hours be notified that his or her dog or cat has been impounded.

(C) The owner of any impounded dog or cat which has not been vaccinated or licensed as required by this chapter, upon satisfactory proof of ownership, may redeem his or her dog or cat by obtaining a license for such dog or cat. No dog or cat that has been impounded shall be released until a license is obtained for it and all fees and expenses for the care of such animal have been paid.

(D) If the owner of any dog or cat impounded under this chapter shall fail to redeem such dog or cat within three days after impoundment, any other person may redeem such dog or cat and be the lawful owner of such animal thereafter by paying all fees and expenses incurred in the care of the animal and obtaining a license for the dog or cat.

(E) All dogs, cats, puppies and kittens impounded under this chapter which have not been redeemed or purchased as authorized by this section within 72 hours may be disposed of in a humane manner by the Police Department or the animal shelter.

(F) Any person who owns, keeps, harbors or maintains or sustains any dog or cat that he or she wishes to dispose of may take and place the same in the animal shelter designated by the city to be disposed of as provided by this section. The animal shelter may require the payment of the expense of the disposition of the dog or cat to be paid by such person.

(1999 Code, § 6-107) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.26 ENFORCEMENT.

(A) It shall be the responsibility of the Mayor and staff of the city to administer this chapter, and to promulgate the necessary rules and regulations for its implementation. Enforcement shall be the responsibility of the city and the county law enforcement.

(B) Upon the effective date of this chapter, in the city, all regulations pertaining to rabies control and licensing will be enforced by the city employees and county law enforcement officers, or others with regulatory authority specified by the governing body.

(1999 Code, § 6-109) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016)

DOG AND CAT REGULATIONS

§ 90.40 OWNER DEFINED.

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

(Neb. RS 54-606, 71-4401) (1999 Code, § 6-110) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.41 PROCLAMATION.

(A) It shall be the duty of the governing body whenever in its opinion the danger to the public safety from rabid dog is great or imminent, to issue a proclamation ordering all persons owning, keeping or harboring any dog 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 such proclamation, or until such danger is passed.

(B) The dogs may be harbored by any good and sufficient means in a house, garage or yard in the rear of the premises wherein the said owner may reside.

(C) Upon issuing the proclamation, it shall be the duty of all persons owning, keeping or harboring any dog to confine the same as herein provided.

(Neb. RS 17-526) (1999 Code, § 6-111) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016)

§ 90.42 RUNNING AT LARGE.

(A) It shall be the duty of the County Sheriff or any Deputy Sheriff to cause any dog or cat found to be running at large within the municipality to be taken up and impounded as provided for in this chapter.

(B) ***RUNNING AT LARGE*** shall mean 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.

(1999 Code, § 6-112) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016)

§ 90.43 CAPTURE IMPOSSIBLE.

The County Sheriff or Deputy 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 54-605) (1999 Code, § 6-113) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016)

§ 90.44 INTERFERENCE WITH ENFORCEMENT.

It shall be unlawful for any person to hinder, delay or interfere with any law enforcement 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 to the shelter.

(Neb. RS 28-906) (1999 Code, § 6-114) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.45 KILLING AND POISONING.

It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim or destroy, or in any manner attempt to injure, maim or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog; provided, that this section shall not apply to municipal police officers acting within their power and duty.

(1999 Code, § 6-115) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.46 ANNOYANCE.

It shall be unlawful for any person to own, keep or harbor any dog or cat which by loud, continuous or frequent barking, howling, meowing, yelping, fighting or mate calling shall annoy or disturb any neighborhood or person or which habitually barks or chases pedestrians, drivers or owners of horses or vehicles while they are on any public sidewalk, street or alley of the municipality.

(1999 Code, § 6-116) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.47 LIABILITY OF OWNER.

(A) It shall be unlawful for any person to allow a dog, cat or other animal owned, kept or harbored by him or her, or under his or her charge or control, to injure or destroy any real or personal property of any description belonging to another person.

(B) The owner or possessor of any such dog, cat or other animal, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained.

(Neb. RS 54-601, 54-602) (1999 Code, § 6-117) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.48 LIMITATIONS ON NUMBER OF DOGS AND CATS.

(A) *Maximum number; exemptions.* It shall be unlawful and a public nuisance for any person to allow more than two dogs and/or more than three cats to be kept, harbored, or maintained at any property in the city unless one of the following conditions have been met:

- (1) The property is located in the industrial district and a special use permit is obtained; or
- (2) The person, entity or facility is a licensed animal shelter or animal rescue organization.

(B) *Exception to requirements.* Any person who presently owns, keeps, or maintains more than three licensed cats or two licensed dogs other than as authorized by this section may retain their licensed animals. If for any reason one of the animals is lost, sold, given away, dies, or is removed or leaves the premises then such animal may not be replaced if the maximum number remains on the premises.

(C) *Deadline for compliance with requirements.* Any person who presently owns, keeps or maintains more than three cats or two dogs other than as authorized by this section shall be required to license each of such animals by March 1, 2016 in order to qualify for the exception provided by this section.

(D) *Penalty for violations.* Any person who is found to be in violation of this section shall be punished by a fine of not less than \$25 nor more than \$100. Each day in violation of this section shall constitute a separate offense.

(Ord. 859, passed 4-4-2016)

DANGEROUS/POTENTIALLY DANGEROUS DOGS

§ 90.60 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. The Thayer County Sheriff's Department or any other entity authorized to enforce the animal control laws of the municipality.

ANIMAL CONTROL OFFICER. Any individual employed, appointed or authorized by the Animal Control Authority for the purpose of aiding in the enforcement of this chapter 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. Any dog that, according to the records of the Animal Control Authority:

- (1) Has killed or inflicted severe injury on a human being on public or private property;
- (2) Has killed a domestic animal without provocation while the dog was off the owner's property; or
- (3) Has been previously determined to be a potentially dangerous dog by the Animal Control Authority and the owner has received notice of such determination and such dog again aggressively bites, attacks or endangers the safety of humans or domestic animals. A dog shall not be defined as a ***DANGEROUS DOG*** if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass as defined in Neb. RS 20-203, 28-520 or 28-521. Or any other tort upon the property of the owner of the dog, who was tormenting, abusing or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused or assaulted the dog, or who was committing or attempting to commit a crime.

DOMESTIC ANIMAL. A cat, a dog or livestock.

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 provoked:

(a) Inflicts a non severe injury on a human or injures a domestic animal either on public or private property; or

(b) 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; or

(3) Any specific breed of dog identified in § 90.64 of this code.

SEVERE INJURY. Any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim.

(Neb. RS 54-617) (1999 Code, § 6-119) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016)

§ 90.61 RESTRAINED.

No owner of a dangerous dog shall restrain the animal in a secure pen or by a chain or leash in the rear of the owner's property, at least ten feet from a public sidewalk or right-of-way.

(Neb. RS 54-618) (1999 Code, § 6-120) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.62 CONFINED.

While unattended on the owner's property, a dangerous dog shall be securely confined, in a humane manner (for not more than 72 hours), 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. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property.

(Neb. RS 54-619) (1999 Code, § 6-121) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016)

§ 90.63 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.

(Neb. RS 54-620) (1999 Code, § 6-122) (Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.64 POSSESSION OF DANGEROUS DOG BREEDS; EXCEPTION.

(A) It shall be unlawful in the city to keep, harbor, maintain or have in a person's possession or control any dog whose breeding has been deemed as dangerous.

(B) Dog breeds which are deemed dangerous are as follows:

- (1) Pit Bull dog;
- (2) The Bull Terrier breed of dogs;
- (3) The Staffordshire Bull Terrier breed of dogs;
- (4) The American Pit Bull Terrier breed of dogs;
- (5) The American Staffordshire Terrier breed of dogs;

- (6) Any Chows;
- (7) Any Dobermans;
- (8) Any Rottweiler;
- (9) Any wolf or wolf hybrids;

(10) Dogs of mixed breed or of other breed than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers;

(11) Any dog which has the appearance and characteristics of being predominantly of the breed of Bull Terrier, American Staffordshire Terrier; any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds; or

(12) Any trained attack dog.

(C) The owner of a dog identified by breed as a dangerous dog in this subchapter may possess such dog by:

- (1) Licensing the dog as provided in this code and paying an annual licensing fee equal to twice the amount of the standard fee;
- (2) Purchasing a muzzle from the City Clerk, which shall be worn by the dog at all times when the dog is off the owner's property;
- (3) Restraining the dog on the owner's property as required by § 90.61 of this code; and
- (4) Fully comply with all other code provisions.

(Ord. 836, passed 6-4-2012; Ord. 859, passed 4-4-2016) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person who shall violate or refuse to comply with any provision of §§ 90.01 through 90.07, inclusive, shall be guilty of an infraction and subject to a fine of not less than \$50, nor more than \$500 per infraction. Each animal not maintained in accordance with the provisions of said sections shall constitute an individual infraction. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1999 Code, § 6-210)

(C) Any person who shall violate or refuse to comply with any provision of §§ 90.20 through 90.26, 90.40 through 90.48, 90.60 through 90.64, shall be guilty of an infraction and subject to a fine of not less than \$50, nor more than \$500 per infraction. Each animal not maintained in accordance with the provisions of said subchapters shall constitute an individual infraction. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(Ord. 781, passed 3-7-2005; Ord. 795, passed 8-7-2006; Ord. 836, passed 6-4-2012; Ord. 859, passed 4-4-2016)

CHAPTER 91: CEMETERIES

Section

- 91.01 Operation and funding
- 91.02 Sexton
- 91.03 Burial prohibited in other places
- 91.04 Excavating, reopening; charge
- 91.05 Official plat; lot prices
- 91.06 Perpetual Care Fund created; Cemetery Fund allocated; donations
- 91.07 Conveyance of lots; recording
- 91.08 Certificate of death; burial permit; removal permit
- 91.09 Burial of indigents
- 91.10 Care of lots; municipality assumes
- 91.11 Cemetery names
- 91.12 Rules and regulations
- 91.13 Destruction of property

- 91.99 Penalty

§ 91.01 OPERATION AND FUNDING.

(A) The municipality owns and manages the municipal cemeteries through the Cemetery Board.

(B) The governing body, for the purpose of defraying the cost of the care, management, maintenance and beautification of the cemeteries 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.

(C) 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 cemeteries.

(D) The Cemetery Fund shall at all times be in the custody of the Municipal Treasurer.

(D) The Board shall have the power and authority to hire and supervise such employees as it may deem necessary and to pass such rules and regulations for the operation of the cemeteries as may be proper for its efficient operation.

(E) All actions by the Board shall be under the supervision and control of the governing body. (Neb. RS 12-301 through 12-403) (1999 Code, § 3-901)

§ 91.02 SEXTON.

The Cemetery Board, subject to the approval of the governing body, shall have the authority to appoint a Sexton, who shall perform such duties and make such reports as the Cemetery Board shall direct. 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 Cemetery Board. (Neb. RS 12-403) (1999 Code, § 3-902)

§ 91.03 BURIAL PROHIBITED IN OTHER PLACES.

No burial shall be permitted in any church yard, or any other place within the corporate limits of the municipality, and any person violating the provisions of this section shall be deemed guilty of an offense, and, upon conviction thereof, shall be subject to a fine as prescribed in § 91.99. (1999 Code, § 3-903) Penalty, see § 91.99

§ 91.04 EXCAVATING; RE-OPENING; CHARGE.

It shall be the duty of the Secretary of the Cemetery Board to charge and collect for excavating and digging graves and reopening graves, such sums as are determined to be adequate by said Cemetery Board with the approval of the governing body. The Cemetery Board shall have the right to dig and excavate all graves, regardless of the method of interment used. (1999 Code, § 3-904)

§ 91.05 OFFICIAL PLAT; LOT PRICES.

(A) The Cemetery Board, subject to the approval of the governing body shall have the power to fix the purchase prices of lots and burial spaces in said cemeteries which shall include, among other things, one schedule of prices adequate to provide for the perpetual care of said lot as well as the cemeteries in general. The purchase prices of the lots and burial places, fixed as aforesaid, shall be publicly exhibited in the office of the Cemetery Board on a map plat therein.

(B) The Secretary, in his or her monthly report to the governing body as hereinafter required, shall include therein, among other things, a list of the lots or burial spaces sold during the preceding month, or since the date of his or her last report, legally describing them, together with the name of the purchaser and the price received for each lot or space.

(C) Future additions to said cemeteries shall likewise be platted and the schedule for the purchase prices of lots and burial spaces in said additions shall be ordained by resolution. Change in the schedule of prices of lots or burial spaces fixed as aforesaid, may hereafter be made upon a two-thirds majority vote of the Cemetery Board, if and when approved by the governing body.
(1999 Code, § 3-905)

§ 91.06 PERPETUAL CARE FUND CREATED; CEMETERY FUND ALLOCATED; DONATIONS.

(A) The Municipal Treasurer shall allocate and set apart 60% of the entire amount paid for lots or burial spaces, if said lot or burial space be endowed with perpetual care, as a permanent fund to be known as Cemeteries Perpetual Care Fund of the city, which, together with the money credited to said fund as provided in § 91.01, shall be a permanent fund, and as it accumulates shall be invested and kept invested in such interest bearing securities as the Investment Council of the state is authorized by law to invest in the funds of the state; and the income therefrom shall be used in the care, upkeep, ornamentation or maintenance of such lots and burial spaces and the cemeteries in general.

(B) The municipality may receive money by donation, bequest or otherwise to be held in trust in perpetuity, the money so received shall be invested as the cemeteries perpetual care fund is herein required to be invested and the income derived therefrom shall be expended as the perpetual care fund is expended or as the donor may designate.

(C) The Municipal Treasurer shall be the custodian of the cemeteries perpetual care fund which shall be invested by the Cemetery Board acting in concert with the Mayor, Municipal Clerk and Municipal Treasurer; and whenever investments are made by said investing board, the nature and character of the same shall be reported to the governing body; and said investment report shall be a matter of public record.

(D) All other monies, including income from the perpetual care fund, accruing to the Cemetery Fund shall be credited, allocated, kept and disbursed by the Municipal Treasurer under the head of Cemeteries General Fund. The Municipal Treasurer shall take custody and control of any and all monies in the two funds hereinbefore mentioned and the same shall hereafter be managed as provided in this chapter.
(1999 Code, § 3-906)

§ 91.07 CONVEYANCE OF LOTS; RECORDING.

(A) The Secretary of the Cemetery Board is hereby authorized and directed to receive payment for all lots, parts of lots or burial spaces sold in said cemeteries at the purchase prices fixed in accordance with § 91.05 and upon receipt of such purchase price in cash or its equivalent, the Secretary shall issue the burial permit required in § 91.08 and shall prepare a deed or certificate for the purchaser or purchasers.

(B) At least once during each 30 days the Secretary shall present all deeds for lots, parts of lots or burial spaces bargained and sold during said period by the Cemetery Board to the Mayor and Municipal Clerk for signature.

(C) The municipality is hereby authorized to convey lots, parts of lots and burial spaces in said cemeteries by certificate signed by the Mayor and countersigned by the Municipal Clerk under the seal of the municipality, specifying that the person to whom the same is issued is the owner of the lot or lots described therein by number, as laid down on the cemetery map or plat for the purpose of interment; and such certificate shall vest in the purchaser or his or her heirs or assigns, a right in fee simple to such lot, lots, part of lot or burial space for the sole purpose of interment under the regulations of the Cemetery Board, as approved by the governing body; and the certificate shall be entitled to be recorded in the office of the County Clerk, without further acknowledgment, and such description of lots, parts of a lot or burial space shall be deemed and recognized as sufficient description thereof.

(D) Burial lots shall not be held and used for speculation and no lot proprietor shall permit, for compensation, interment in or upon any lot held by him or her. The governing body deem it for the public good and welfare that all certificates issued, as aforesaid, be recorded.

(E) The grantee of each lot, part of a lot or burial space shall pay to the Secretary a fee of \$1.25 for recording expense and service, whereupon said Secretary, within 30 days thereafter, shall record the grantee's certificate of ownership in the office of the County Clerk, pay the recording fee therefore and deliver said recorded certificate as directed as the purchaser.

(F) Transfers of certificates shall be made by surrender or original certificates to the Secretary who shall cancel the same, note such cancellation on the records of the Cemetery Board, and shall issue new certificates in lieu thereof upon receipt of same fee for recording expense and service as in the case of issuing original certificates.

(1999 Code, § 3-907)

§ 91.08 CERTIFICATE OF DEATH; BURIAL PERMIT; REMOVAL PERMIT.

Every person or persons owning a lot, or part of a lot or burial space in any of said cemeteries, before he or she is entitled to bury upon said lot, part of a lot or burial space, shall be required to furnish a burial or removal permit from the registrar, setting forth the name, age, sex, race and cause of death of said deceased person sought to be buried or removed, which burial or removal permit shall be filed in the office of the Secretary of the Cemetery Board, whereupon said Secretary shall issue a permit to said person or persons for the burial, interment or removal of said deceased person; provided, in all cases, the Secretary of said Cemetery Board shall issue no permit to remove the same until the applicant for such removal shall have first complied with all the applicable laws of the state with respect to the removal or disinterment of dead bodies.

(1999 Code, § 3-908)

§ 91.09 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.

(1999 Code, § 3-909)

§ 91.10 CARE OF LOTS; MUNICIPALITY ASSUMES.

The municipality shall care for all lots, parts of lots or burial spaces in its cemeteries now platted or to be platted, through its Cemetery Board, and shall keep the said lots and grounds free from weeds.

(1999 Code, § 3-910)

§ 91.11 CEMETERY NAMES.

The names Rose Hill Cemetery and Hebron Cemetery are hereby designated as the names of the existing municipal cemeteries respectively.

(1999 Code, § 3-911)

§ 91.12 RULES AND REGULATIONS.

(A) The Cemetery Board shall have the power to adopt reasonable rules and regulations for the management of said cemeteries including the construction or removal of fences, corner posts or walls around any lot or lots, including the type of monuments which may be permitted or allowed and including the removal of the bodies deceased persons from lots, not endowed with perpetual care, upon failure of the owners thereof who shall have neglected to pay maintenance assessments in full for such lot, part of a lot or burial space, for a period of three years.

(B) When said rules shall have been approved by the affirmative action of the governing body, and three copies thereof shall have been filed with the Municipal Clerk, said rules so adopted and filed shall become a part of this chapter the same as though printed in full herein.

(1999 Code, § 3-912)

§ 91.13 DESTRUCTION OF PROPERTY.

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

(Neb. RS 28-512) (1999 Code, § 3-913) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, 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 chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Neb. RS 17-505, 18-1720, 18-1722) (1999 Code, § 3-1001) (Ord. 744, passed 7-10-2000)

CHAPTER 92: FAIR HOUSING

Section

- 92.01 Purpose
- 92.02 Definitions
- 92.03 Unlawful acts
- 92.04 Handicapped person; discrimination practices prohibited
- 92.05 Transaction related to residential real estate; discriminatory practices prohibited
- 92.06 Multiple listing service
- 92.07 Religious organization, private home; private club, or housing for older persons; restricting use not prohibited
- 92.08 Information

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§ 92.01 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 Article 1, § 25, of the Constitution of the state. (1999 Code, § 10-701)

§ 92.02 DEFINITIONS.

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

AGGRIEVED PERSON. Include any person who: claims to have been injured by a discriminatory housing practice; or believes that he or she will be injured by a discriminatory housing practice that is about to occur.

COMMISSION. The Nebraska Equal Opportunity Commission.

DWELLING. Any building, structure or portion thereof which is occupied as or designed or intended for occupancy as a residence for one 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: a parent or another person having legal custody of such individual; or 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: 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 one or more of such person's major life activities; a record of having such an impairment; or being regarded as having such an impairment.

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

RENT. Include 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.
(1999 Code, § 10-702)

§ 92.03 UNLAWFUL ACTS.

(A) 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.

(B) Except as exempted by § 92.07, 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 such 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 such employee or agent because of such 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.
(1999 Code, § 10-703) Penalty, see § 92.99

§ 92.04 HANDICAPPED PERSON; DISCRIMINATION PRACTICES PROHIBITED.

(A) Except as exempted by § 97.07, 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) Such person;

(b) Any person associated with such person; or

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

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(B) For purposes of this section, ***DISCRIMINATION*** shall include:

(1) 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;

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

(3) 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:

(a) The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;

(b) 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

(c) All premises within the dwellings contain the following features of adaptive design:

1. An accessible route into and through the dwelling;

2. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

3. Reinforcements in bathroom walls to allow later installation of grab bars; and

4. 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 (B)(3)(c) above.

(D) For purposes of this section, ***COVERED MULTI-FAMILY DWELLINGS*** shall mean:

(1) Buildings consisting of four or more units if such buildings have one or more elevators; and

(2) Ground floor units in other buildings consisting of four 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.
(1999 Code, § 10-704) Penalty, see § 92.99

§ 92.05 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 purposes of this section, *TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE* shall mean any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
 - (a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - (b) Secured by residential real estate.
- (2) 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.
(1999 Code, § 10-705) Penalty, see § 92.99

§ 92.06 MULTIPLE LISTING SERVICE.

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 such access, membership or participation on account of race, color, religion, national origin, handicap, familial status or sex.
(1999 Code, § 10-706) Penalty, see § 92.99

§ 92.07 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 such persons unless membership in such 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 such 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 four sleeping rooms to a person or family within his or her home.

(D) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons. For purposes of this division (D), *HOUSING FOR OLDER PERSONS* shall mean 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 one person 55 years of age or older per unit.

(1999 Code, § 10-707) Penalty, see § 92.99

§ 92.08 INFORMATION.

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 such individual.

(Neb. RS 20-301 through 20-322) (1999 Code, § 10-708)

§ 92.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, 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 chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.
(Neb. RS 17-505, 18-1720, 18-1722) (1999 Code, § 10-801) (Ord. 744, passed 7-10-2000)

CHAPTER 93: FIRE PREVENTION

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GENERAL PROVISIONS

§ 93.01 DISORDERLY SPECTATOR.

(A) 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 Municipal Fire Chief, or to act in a noisy or disorderly manner.

(B) The Fire Chief and Assistant Fire Chief shall have the power and authority during such time to arrest or command any such person to assist them in the performance of their official duties.
(Neb. RS 28-908) (1999 Code, § 7-101) Penalty, see § 93.99

§ 93.02 EQUIPMENT.

It shall be unlawful for any person except the Fire Chief and the members of the Municipal Fire Department 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) (1999 Code, § 7-102) Penalty, see § 93.99

§ 93.03 INTERFERENCE.

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) (1999 Code, § 7-103) Penalty, see § 93.99

§ 93.04 OBSTRUCTION.

(A) 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 said hydrant.

(B) 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.
(Neb. RS 60-6,166) (1999 Code, § 7-104) Penalty, see § 93.99

§ 93.05 ASSISTANCE.

It shall be unlawful for any person to refuse, 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.
(Neb. RS 28-908) (1999 Code, § 7-105) Penalty, see § 93.99

§ 93.06 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 60-6,184) (1999 Code, § 7-106) Penalty, see § 93.99

§ 93.07 TRAFFIC.

(A) Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five minutes after the sounding of the fire alarm.

(B) 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.

(C) Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles.
(Neb. RS 60-6,183) (1999 Code, § 7-107) Penalty, see § 93.99

§ 93.08 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) (1999 Code, § 7-108) Penalty, see § 93.99

§ 93.09 FALSE ALARM.

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire.
(Neb. RS 28-907, 35-520) (1999 Code, § 7-109) Penalty, see § 93.99

FIRE PREVENTION**§ 93.20 FIRE PREVENTION CODE.**

(A) The rules and regulations promulgated by the office of the State Fire Marshal relating to fire prevention are incorporated by reference into this Code and made a part of this chapter as though spread at large herein together with all subsequent amendments thereto.

(B) 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, 81-502) (1999 Code, § 7-201)

§ 93.21 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.

(1999 Code, § 7-202) Penalty, see § 93.99

§ 93.22 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 said 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) (1999 Code, § 7-203) Penalty, see § 93.99

§ 93.23 SCHOOL DRILLS.

It shall be the duty of the officials and teachers of all the schools in the municipality to cooperate with the Municipal Fire Department in conducting fire drills in such number and at such times as the Fire Chief shall prescribe; provided, that at least one fire drill shall be held each year. All doors and exits leading to the outside of the school shall be kept unlocked during school hours.

(1999 Code, § 7-204) Penalty, see § 93.99

§ 93.24 FIRE LIMITS DEFINED.

The following described territory in the municipality shall be and constitute the fire limits: the south half (S 1/2) of Block Seven (7), the south half (S 1/2) of Block Eight (8) and the North half (N 1/2) of Block Eighteen (18), the North half (N 1/2) of Block Seventeen (17), all of Blocks Nine, Ten, Fifteen and Sixteen (9, 10, 15, 16), west half (W 1/2) of Blocks Eleven and Fourteen (11, 14), and all streets and alleys included therein or contiguous thereto in the Original Town of Hebron, Nebraska; Lots One, Two, Three, Four and Five (1, 2, 3, 4, 5), inclusive, Block Four (4), Lots Fifteen through Twenty (15-20), inclusive, Block Three (3), Lot Twenty (20), Block Eight (8), and that part of the Chicago, Rock Island Pacific Railway right-of-way lying directly south of the West half (W 1/2) of Block Three (3), and all streets and alleys included therein or contiguous thereto in Huse's Addition to the city, all in said city in Thayer County, Nebraska.

(Neb. RS 17-550) (1999 Code, § 7-205) (Ord. 785, passed 6-4-2005)

§ 93.25 FIRE LIMITS; MATERIALS.

Within the aforesaid fire limits, no structure shall be built, altered, moved or enlarged unless such structure will be enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete or other such noncombustible materials as will satisfy the Fire Chief that the said structure will be reasonably fireproof.

(Neb. RS 17-550) (1999 Code, § 7-206) Penalty, see § 93.99

§ 93.26 PERMITTED REPAIRS.

It shall be unlawful for any person to repair, alter or add to any building in the fire limits where the repair is less than 50% of the building unless the said person shall first submit an application to the Municipal Clerk to make such repairs, alterations or to add to any building and shall state on the application that the material used will be non-combustible and approved by the Fire Chief. Repairs in the form of patching and other minor repairs shall not require a permit. In the event that the repairs, alteration or addition is to involve more than 50% of the building, the owner shall be required to apply for a new building permit which shall state that the building, when completed, shall be fireproof and made of non-combustible materials.

(Neb. RS 17-550) (1999 Code, § 7-207) Penalty, see § 93.99

§ 93.27 REMOVAL REQUIRED.

In the event that any wooden or combustible building or structure, or any non-combustible building which stands within the fire limits is damaged to the extent of 50% or more of its value, exclusive of the foundation, and to the extent of requiring condemnation by the State Fire Marshal, it shall not be repaired or rebuilt, but shall be taken down and removed within 60 days from the date of such fire or other casualty.

(Neb. RS 17-550) (1999 Code, § 7-208) Penalty, see § 93.99

§ 93.28 REMOVAL OR REPAIR REQUIRED.

In the event that a building within the fire limits becomes damaged by fire, wind, flood, vandalism or any other cause, to the extent of less than 50% of its value, exclusive of the foundation, and to the extent not requiring condemnation by the State Fire Marshal, it shall be the duty of the owner, lessee or occupant to remove or repair the said building in accordance with the provisions of this chapter. It shall be unlawful for any person to allow a building to stand in such damaged or decayed condition. Any such building shall be removed or repaired within 30 days after receiving notice to do so by the governing body.

(Neb. RS 17-550) (1999 Code, § 7-209) Penalty, see § 93.99

§ 93.29 FIRES REGULATED.

It shall be lawful to build or set out fires only in accordance with this section. Any person building such fire shall have the substance to be burned in a fireproof trash burner or incinerator, which burner or incinerator shall be built in such a way as to not permit the escape of burning paper or other substance. All lawful burning must be commenced subsequent to 7:00 a.m. and completely extinguished by 12:00 noon on Mondays. No burning shall be allowed on any day other than Monday, and no burning shall be allowed at any time other than the time set forth in this section. It shall be unlawful for any person to set fire to, bum, or cause to be burned any garbage, animal matter or vegetable matter. Open burning shall be permitted only by obtaining a proper burning permit as required by § 93.30.

(1999 Code, § 7-210) Penalty, see § 93.99

§ 93.30 OPEN BURNING BAN; WAIVER.

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

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

(C) The Municipal Fire Chief or his or her designee may waive the open burning ban in his or her jurisdiction when conditions are acceptable to the Chief or his or her designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his or her intention to burn.

(D) The Municipal Fire Chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under division (B) above.

(E) The Municipal 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. Such 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) above in the course of such state's or political subdivision's official duties.

(Neb. RS 81-520.01) (1999 Code, § 7-211)

FIREWORKS

§ 93.45 DEFINITION.

FIREWORKS shall mean 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 C.F.R. Title 49.

(Neb. RS 28-1241) (1999 Code, § 7-301)

§ 93.46 PERMITTED FIREWORKS.

(A) It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding seven-eighths inch in length or one-eighth inch in diameter, and which do not contain more than 50 milligrams each in weight of explosive material.

(B) The provisions of this section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the governing body or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal.

(Neb. RS 17-556, 28-1241, 28-1244, 28-1245) (1999 Code, § 7-302) Penalty, see § 93.99

§ 93.47 THROWING FIRECRACKERS.

It shall be unlawful for any person to throw any firecracker, or any object which explodes upon contact with another object; from or into a motor vehicle; onto any street, highway or sidewalk; at or near any person; into any building; or into or at any group of persons.

(Neb. RS 17-556, 28-1242) (1999 Code, § 7-303) Penalty, see § 93.99

§ 93.48 SALE.

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

(B) Licensees shall only sell fireworks which have been approved by the State Fire Marshal, and permissible fireworks may be sold at retail only between June 24 and July 5 of each year and between December 28, 1999 and January 1, 2000.

(Neb. RS 28-1246 through 28-1250) (1999 Code, § 7-304) (Ord. 737, passed 12-6-1999) Penalty, see § 93.99

GASES, STORAGE; EXPLOSIVES**§ 93.60 POISONOUS AND FLAMMABLE GASES; STORAGE REGISTRATION.**

(A) 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 any form of poisonous or flammable gases or liquefied petroleum gases within the municipality shall register such information with the Municipal Clerk 24 hours prior to such storage.

(B) The transfer of such gases to another person within the municipality shall require the person receiving such gases to register the transfer and the new location of the gases with the Municipal Clerk. The transfer of 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 five gallons or less of gasoline. (Neb. RS 17-549, 17-556, 28-1229, 28-1233) (1999 Code, § 7-401)

§ 93.61 EXPLOSIVES; STORAGE REGISTRATION; REQUIREMENTS.

(A) 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 shall register such information with the Municipal Clerk 24 hours prior to such storage.

(1) The transfer of explosive materials to another person within the municipality shall require the person receiving the explosive materials to register the transfer and the new location of the explosive materials with the Municipal Clerk.

(2) The transfer of explosive materials to a new location by the owner shall require registration of the new location with the Municipal Clerk.

(B) 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. Such 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, 28-1233) (1999 Code, § 7-501)

§ 93.62 BLASTING PERMITS.

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 apply for and secure a permit from the governing body 24 hours prior to such discharge, and shall discharge such 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 State Patrol.
(Neb. RS 17-549, 17-556, 28-1229, 28-1233) (1999 Code, § 7-502)

§ 93.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, 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 chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.
(Neb. RS 17-505, 18-1720, 18-1722) (1999 Code, § 7-601) (Ord. 744, passed 7-10-2000)

CHAPTER 94: LIBRARY

Section

- 94.01 Operation and funding
- 94.02 Books
- 94.03 Rules and regulations
- 94.04 Books issued
- 94.05 Damaged and lost books
- 94.06 Book labeling
- 94.07 Book removal
- 94.08 Cost of use
- 94.09 Money collected
- 94.10 Library Board; annual report

- 94.99 Penalty

§ 94.01 OPERATION AND FUNDING.

The municipality owns and manages the municipal library through the Library Board. The governing body, 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 municipality. The revenue from the tax shall be known as the Library 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 library. The Library Fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to appoint the librarian and to hire such other employees as it may deem necessary, and may pass such other rules and regulations for the operation of the library as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the governing body.

(Neb. RS 51-201, 51-202, 51-211) (1999 Code, § 3-801)

§ 94.02 BOOKS.

(A) The Library Board may authorize the sale, exchange or disposal of any surplus, damaged, defective, obsolete or duplicate books in the library.

(B) Records shall be kept of any such surplus, damaged, defective, obsolete or duplicate books so disposed of.

(Neb. RS 51-207) (1999 Code, § 3-802)

§ 94.03 RULES AND REGULATIONS.

The Library Board shall establish rules and regulations for the governing of the municipal library for the preservation and efficient management thereof. It shall fix and impose by general rules, penalties and forfeitures for injury to the library grounds, rooms, books or other property, or for failure to return a book. All fees, penalties and forfeitures may be collected in civil action in the event of failure, neglect or refusal to pay the said assessments.

(Neb. RS 51-205, 51-214) (1999 Code, § 3-803)

§ 94.04 BOOKS ISSUED.

The Librarian shall keep, or cause to be kept, a register of all books issued and returned at the time they shall so be issued and returned. None of the books shall be detained more than 14 days without being renewed. No book may be renewed more than two consecutive times by any person without the special permission of the Librarian or an authorized employee of the municipal library.

(Neb. RS 51-211) (1999 Code, § 3-804) Penalty, see § 94.99

§ 94.05 DAMAGED AND LOST BOOKS.

Any person who injures or fails to return any book taken from the library shall forfeit and pay to the library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess.

(Neb. RS 51-211) (1999 Code, § 3-805)

§ 94.06 BOOK LABELING.

It shall be the duty of the Librarian to label, or cause to be labeled, with a printed or stamped label, proof of municipal ownership on each book, and also to write the said proof on the thirtieth page of each volume.

(Neb. RS 51-211) (1999 Code, § 3-806)

§ 94.07 BOOK REMOVAL.

(A) 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.

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

(Neb. RS 51-211) (1999 Code, § 3-807) Penalty, see § 94.99

§ 94.08 COST OF USE.

The municipal library shall be free of charge for the use of the inhabitants of the municipality. The Librarian may exclude from the use of the library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof.

(Neb. RS 51-201, 51-212) (1999 Code, § 3-808)

§ 94.09 MONEY COLLECTED.

Any money collected by the library shall be turned over monthly by the Librarian to the Municipal Treasurer along with a report of the sources of the revenue.

(Neb. RS 51-209) (1999 Code, § 3-809)

§ 94.10 LIBRARY BOARD; ANNUAL REPORT.

(A) 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.

(B) 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.

(C) The report shall be verified by affidavit of the President and Secretary of the Library Board.

(Neb. RS 51-213) (1999 Code, § 3-810) (Ord. 783, passed 2-7-2005)

§ 94.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, 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 chapter.

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(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.
(Neb. RS 17-505, 18-1720, 18-1722) (1999 Code, § 3-1001) (Ord. 744, passed 7-10-2000)

CHAPTER 95: NUISANCES; HEALTH

Section

Health Provisions

- 95.01 Regulations
- 95.02 Enforcement official
- 95.03 County Health Board

Nuisance Regulations

- 95.15 General definition
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- 95.17 Jurisdiction
- 95.18 Abatement procedure
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HEALTH PROVISIONS

§ 95.01 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 such rules and regulations relative thereto and shall make such inspections, prescribe such penalties and make such reports as may be necessary toward that purpose. (Neb. RS 17-121) (1999 Code, § 4-101) Penalty, see § 10.99

§ 95.02 ENFORCEMENT OFFICIAL.

The County Sheriff, as the Quarantine Officer, and the City Administrator shall be the chief health officers of the municipality. It shall be the duty of each to notify the governing body of public nuisances and the Board of Health of health nuisances within the municipality and its zoning jurisdiction. (Neb. RS 17-121) (1999 Code, § 4-102) (Ord. 862, passed 10-3-2016)

§ 95.03 COUNTY HEALTH BOARD.

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.
(1999 Code, § 4-103)

NUISANCE REGULATIONS**§ 95.15 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:

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

(B) Offends decency;

(C) Is offensive to the senses;

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

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

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

(Ord. 816, passed 10-5-2009) Penalty, see § 10.99

§ 95.16 SPECIFICALLY DEFINED.

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:

(A) Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter or the whole or any part of any dead animal, fish or fowl;

(B) Privies, vaults, cess pools, dumps, pits or like places which are not securely protected from flies or rats, or which are fowl or malodorous;

(C) Filthy, littered or trash covered cellars, house yards, barnyards, stable yards, factory yards, mill yards, vacant areas in the rear of stores, granaries, vacant lots, houses, buildings or premises;

(D) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the municipality;

(E) 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, 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;

(F) 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;

(G) 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 said 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;

(H) Any 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 said 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;

(I) All places used or maintained as junkyards, or dumping grounds, or for the wrecking and disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said 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;

(J) Stagnant water permitted or maintained on any lot or piece of ground;

(K) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind or confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when said premises in which said animals are confined, or said premises on which said vegetable or animal matter is located, are maintained and kept in such a manner that fowl 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;

(L) Any dead or diseased trees within the right-of-way of streets or any private property within the corporate limits of the municipality;

(M) Weeds, grasses or worthless vegetation growing upon any lot within the municipality, specifically including any weed (of any height) or grass growth of more than 12 inches in height; weeds shall include, but not be limited to, bindweed, puncture vine, leafy spurge, Canada thistle, perennial pepper grass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bowl thistle, buckthorn, hemp plant and ragweed;

(N) The accumulation of litter on property within the municipality; the term *LITTER* shall include, but not be limited to:

(1) Trash, rubbish, refuse, garbage, paper, rags and ashes;

(2) Wood, plaster, cement, brick or stone building rubble;

(3) Grass, leaves and worthless vegetation;

(4) Offal and dead animals;

(5) Any machine, vehicle or parts of a machine or vehicle which have lost their identity, character, utility or service ability as such through deterioration, dismantling or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded or thrown away or left as waste, wreckage or junk; or

(6) Any motor vehicle not housed in a storage or other building and not being currently licensed.

(O) Any *DANGEROUS BUILDING* maintained upon property within the municipality, defined to mean and include:

(1) Any building, shed, fence or other human-made structure which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease or injury to the health of its occupants or neighboring structures;

(2) Any building, shed, fence or other manmade structure which because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard;

(3) Any building, shed, fence or other manmade structure which, by reason of faulty construction or any other cause, is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure; and/or

(4) Any building, shed, fence or other human-made structure which, because of its condition or because of lack of doors or windows readily admits birds and animals or is an attraction for the children or other persons to enter.

(P) The pollution of air within the municipality; air shall be considered to be polluted when the discharge into the open air of dust, fumes, gases, mist, odors, smoke or any combination thereof is of such character and in a quantity which to any group of persons interferes with their health, repose or safety, or causes severe annoyance or discomfort or is offensive and objectionable to normal persons or causes injury to real and personal property of any kind; the standards for air pollution established or adopted by the state, or the United States government or any agency thereof, shall be presumptive evidence as to when the air is deemed to be polluted under this section;

(Q) To obstruct or impede without legal authority any waterway within the municipality, or to corrupt and render unwholesome or impure any watercourse, stream or other water supply; the standards for water quality established or adopted by the state shall be presumptive evidence as to when the water is deemed to be polluted under this provision; and

(R) All other things specifically designated as nuisances elsewhere in this municipal code.
(Ord. 816, passed 10-5-2009) Penalty, see § 10.99

§ 95.17 JURISDICTION.

(A) The Mayor, City Council and city law enforcement officers shall have the authority to enforce this municipal code against all nuisances.

(B) The jurisdiction of the Mayor, City Council and city law enforcement, as well as the Court, shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the municipality within two miles thereof and all territory within the corporate limits.
(Ord. 816, passed 10-5-2009)

§ 95.18 ABATEMENT PROCEDURE.

(A) It shall be the duty of every owner or occupant of real estate in the municipality to keep such real estate free of public nuisances.

(1) Upon determination of the City Council that an owner or occupant has failed to keep such real estate free of public 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 said owner or occupant, or said owner or to the duly authorized agent of any such owner or occupant, by personal service or 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 city or by conspicuously posting the notice upon the real estate upon which the nuisance is to be abated and removed.

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(2) Such notice shall describe the condition as found by the City Council, and shall state that the condition has been declared a public nuisance, and that the condition must be remedied at once.

(3) Within ten days after the receipt of such notice, if the owner or occupant of real estate does not request a hearing, or fails to comply with the order to abate and remove the nuisance, the municipality shall have such work done and may levy and assess the costs and expenses of such work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(4) Additionally, the municipality may recover all costs and expenses of the work completed upon the real estate against the owner or occupant thereof in a civil action.

(B) If 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.

(1) Notice of the hearing shall be given by personal service or certified mail and shall require the owner or occupant to appear before the governing body to show cause why such condition should not be found to be a public nuisance and remedied.

(2) Such notice shall be given not less than seven, nor more than 14 days prior to the time of the hearing.

(3) Upon the date fixed for the hearing and pursuant to notice, the governing body shall hear all objections made by the owner or occupant and shall hear evidence upon which the City Council made its initial decision with respect to the existence of a public nuisance.

(4) If, after consideration of all of the evidence, the governing body shall find that the condition is a public nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the public nuisance at once.

(5) Should the owner or occupant refuse or neglect to properly comply with the order of the governing body, the governing body shall proceed to cause the abatement of the described public nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed or, additionally, the governing body may recover such costs against the owner or occupant in a civil suit.
(Ord. 816, passed 10-5-2009; Ord. 861, passed 10-3-2016) Penalty, see § 10.99

§ 95.19 FAILURE TO CORRECT.

(A) In the event that the owner or occupant of said premises, as described in the preceding section, fails to correct and eliminate said nuisance, he or she shall be guilty of a misdemeanor.

(B) The continued violation on each successive day after the expiration of the notice provided for in the previous section shall be a separate offense.
(Ord. 816, passed 10-5-2009) Penalty, see § 10.99

§ 95.20 WEEDS, LITTER, STAGNANT WATER.

(A) Lots or pieces of ground within the city shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the city shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of eight inches or more in height of weeds, grasses or worthless vegetation.

(C) The throwing, depositing or accumulation of litter on any lot or piece of ground within the city is prohibited, except that grass, leaves and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of eight inches or more in height of weeds, grasses or worthless vegetation or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense.

(F) (1) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail.

(a) If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed.

(b) Within five days after receipt of such notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done.

(c) The costs and expenses of any such work shall be paid by the owner, in accordance with the following schedule: \$100 per hour, with a \$100 minimum.

(2) If unpaid for two months after such work is done, the city may either:

(a) Levy and assess 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 and assessed; or

(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

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

LITTER. Includes, but is not limited to:

- (a) Trash, rubbish, refuse, garbage, paper, rags and ashes;
- (b) Wood, plaster, cement, brick or stone building rubble;
- (c) Grasses, leaves and worthless vegetation;
- (d) Offal and dead animals; and

(e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility or serviceability as such through deterioration, dismantling or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded or thrown away or left as waste, wreckage or junk.

WEEDS. Includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (toun), hemp plant (*Cannabis sativa*) and ragweed (*Ambrosiaceae*).
(Neb. RS 17-563) (Ord. 825, passed 7-11-2011) Penalty, see § 10.99

Cross-reference:

Similar provisions, see § 130.08

CHAPTER 96: PARKS AND RECREATION

Section

Municipal Parks

- 96.01 Operation and funding
- 96.02 Riverside Park; services, fees, regulations
- 96.03 Injury to property

Swimming Pool

- 96.15 Operation and funding
- 96.16 Rules and regulations
- 96.17 Admission charge
- 96.18 Rentals

- 96.99 Penalty

MUNICIPAL PARKS

§ 96.01 OPERATION AND FUNDING.

(A) The municipality owns and operates the municipal parks and other recreational areas through the Park Board.

(B) The governing body, 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.

(C) The revenue from the tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer.

(D) The 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.

(E) The 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 governing body prior to the contractual agreement.
(Neb. RS 17-948 through 17-952) (1999 Code, § 3-601)

§ 96.02 RIVERSIDE PARK; SERVICES, FEES, REGULATIONS.

(A) The policy of the municipality is that park and recreation services must be recognized as essential to the quality of life in the municipality. For this reason charges will be made at Riverside Park, sometimes known as the CCC Camp, for certain park and recreation services in order to avoid having to discontinue the services of that facility. The charges provided in this section are for the activities and facilities described in this section. Nothing in this section shall be interpreted as modifying or repealing any charges by ordinances for other parks or specific facilities of the city.

(B) The charges for the use of electric hookups, dumping station, showers and restrooms, by persons with recreational vehicles or recreational trailers, shall be \$15 per day; charges for persons using said facilities, but pitching tents, shall be \$5 per day per tent.

(C) No person may use the electric hookups, dumping station, showers and restrooms for a period of more than ten consecutive days, unless an extension is obtained as hereinafter provided.

(D) The park attendant shall supervise the Riverside Park and persons who have parked recreational vehicles or pitched tents therein; the park attendant shall be authorized to grant extensions of the ten-day period of time described above, when, in his or her sole discretion, he or she believes it to be in the best interests of the Riverside Park and the municipality to do so.

(E) In exercising his or her discretion, the park attendant shall not discriminate against persons on account of sex, skin color, religion, race or national origin.
(1999 Code, § 3-602) (Ord. 838, passed 8-6-2012) Penalty, see § 96.99

§ 96.03 INJURY TO PROPERTY.

(A) It shall be unlawful for any person to maliciously or wilfully cut down, injure or destroy any tree, plant or shrub.

(B) 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.

(C) No person shall commit any waste on or litter the municipal parks or other public grounds.
(1999 Code, § 3-603) Penalty, see § 96.99

SWIMMING POOL

§ 96.15 OPERATION AND FUNDING.

(A) The municipality owns and manages the municipal swimming pool.

(B) The governing body, 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.

(C) 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.

(D) The Swimming Pool Fund shall at all times be in the custody of the Municipal Treasurer.

(E) The City Supervisor shall manage the swimming pool. The City Supervisor shall have the power and authority to hire and supervise the Swimming Pool Manager and such employees as he or she may deem necessary and shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation.

(F) All actions by the City Supervisor shall be under the supervision and control of the Mayor. (Neb. RS 17-948, 17-951, 17-952) (1999 Code, § 3-701)

§ 96.16 RULES AND REGULATIONS.

The governing body 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. They may provide suitable penalties for the violation of such bylaws, rules and regulations.

(Neb. RS 17-949) (1999 Code, § 3-702)

§ 96.17 ADMISSION CHARGE.

The governing body 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 said charges shall be on file at the office of the Municipal Clerk and shall also be posted in a conspicuous place at the municipal swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; provided, that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color or national origin in the classification of persons for admission charges.

(Neb. RS 17-949) (1999 Code, § 3-703)

§ 96.18 RENTALS.

(A) The Swimming Pool Manager shall have the authority to rent the municipal swimming pool to such organizations and other persons as he or she may in his or her discretion see fit, subject to the review of the governing body.

(B) The Swimming Pool Manager 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.

(C) Such 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.

(Neb. RS 17-949) (1999 Code, § 3-704)

§ 96.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, 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 chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(Neb. RS 17-505, 18-1720, 18-1722) (1999 Code, § 3-1001) (Ord. 744, passed 7-10-2000)

CHAPTER 97: STREETS, SIDEWALKS AND PROPERTY

Section

City Property

- 97.01 Definitions
- 97.02 Streets, alleys, walks, malls, and other improvements
- 97.03 Maintenance and control
- 97.04 Regulation of obstructions
- 97.05 Regulation of snow, ice, and other encroachments
- 97.06 Permitted use of public street space
- 97.07 Poles, wires, and pipe lines
- 97.08 Dangerous stairways and entrances
- 97.09 Excavations and exposures; barricades and lights
- 97.10 Guttering and eave spouts
- 97.11 Prohibited obstructions
- 97.12 Trees in sidewalk space
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- 97.14 Signs and canopies
- 97.15 Cutting into paving, curb, or sidewalk
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Sale and Acquisition of Property; Public Works

- 97.30 Sale and conveyance; real property
- 97.31 Sale and conveyance; personal property
- 97.32 Acquisition or construction of public buildings; election requirements
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Sidewalks

- 97.50 Requirement to keep clean
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Streets and Alleys

- 97.65 Dedication to public use
- 97.66 Grading, paving, and other improvements
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- 97.69 Vacating public ways; procedure
- 97.70 Crossings
- 97.71 Names and numbers
- 97.72 Driveway approaches
- 97.73 Excavation
- 97.74 Driving stakes
- 97.75 Mixing concrete
- 97.76 Harmful liquids
- 97.77 Snow, debris, and the like on street prohibited

CITY PROPERTY**§ 97.01 DEFINITIONS.**

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

OVERSEER OF STREETS. The city official with general charge, direction, and control of streets and sidewalks. If one official is responsible for streets and another official is responsible for sidewalks, ***OVERSEER OF STREETS*** shall mean whichever one is appropriate in the context the term is used.

SIDEWALK SPACE. The portion of a street between curb lines and adjacent property lines.

§ 97.02 STREETS, ALLEYS, WALKS, MALLS, AND OTHER IMPROVEMENTS.

The City Council may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, re-gravel, macadamize, remacadamize, widen, or narrow streets or roadways, resurface or re-lay 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; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefitted in proportion to such benefits, except as provided in Neb. RS 19-2428 through 19-2431. The City Council may by ordinance create paving, repaving, grading, curbing, recurbing, resurfacing, graveling, or improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways, and

may include two or more of the improvements in one proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefitted shall be ordered as provided in Neb. RS 17-510 to 17-512, except as otherwise provided in Neb. RS 17-509.

(Neb. RS 17-509)

Statutory reference:

Other provisions on improvements, assessments, and bonds, see Neb. RS 17-513 to 17-524, 18-1751, 19-2401, and 19-2408 to 19-2415

§ 97.03 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 city and shall cause the same to be kept open and in repair and free from nuisances.

(Neb. RS 17-567)

§ 97.04 REGULATION OF OBSTRUCTIONS.

(A) The city may 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 city and require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

(B) The city may 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 city.

(Neb. RS 17-555) (Ord. 873, passed 9-6-2017)

§ 97.05 REGULATION OF SNOW, ICE, AND OTHER ENCROACHMENTS.

(A) The city 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 city property.

(Neb. RS 17-557)

(B) In case such abutting property owner refuses or neglects, after five 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 city through the proper officers may cause such encroachments to be removed, and the cost of removal paid out of the street fund. The City Council shall assess the cost of the notice and removal of the encroachment against the abutting property. The special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as special taxes in addition to the general revenue taxes, and shall be subject to the same

penalties and shall draw interest from the date of the assessment. Upon payment of the assessment, the same shall be credited to the street fund.

(Neb. RS 17-557.01)

§ 97.06 PERMITTED USE OF PUBLIC STREET SPACE.

Any person 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 the building material and equipment as long as is necessary if such person makes application to and receives a permit to do so in writing from the Overseer of Streets. No permit shall authorize the occupancy of more than one-third of the roadway of the public space adjacent to the real estate on which the building or sidewalk is to be erected, constructed, reconstructed, wrecked, or repaired. A suitable passageway for pedestrians shall be maintained within the public space included in the permit, which passageway shall be protected and lighted in the manner required by the Overseer of Streets.

Penalty, see § 10.99

§ 97.07 POLES, WIRES, AND PIPE LINES.

(A) Poles, wires, conduits, 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 city. Application for location of such appurtenances shall be made to the City Council in writing. Approval by the Council shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, wires, conduits, gas mains, pipe lines, or other appurtenances shall at all times erect and locate their appurtenances at such places and in such manner as shall be designated by the Council.

(B) All poles, wires, conduits, 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 Council. Any such removal or relocation shall be ordered by resolution of the Council and the City 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, conduits, gas mains, pipe lines, or other appurtenances to be removed or relocated. The Council shall designate another location as closely as possible where the appurtenances may be reset or placed.

(C) All poles, wires, conduits, 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; the sewerage system; any poles, wires, conduits, mains, lines, or other appurtenances of any public utility; any adjacent buildings; or travel on the public ways and property. Whenever possible, all poles, wires, conduits, gas mains, pipe lines, and appurtenances shall be confined to the alleys of the city.

§ 97.08 DANGEROUS STAIRWAYS AND ENTRANCES.

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, except that all existing stairways, open cellarways, open basement ways, or open entrances thereto in or adjacent to sidewalks, pavements, or streets may be permitted to remain from and after the adoption of this prohibition if the person owning or using the opening in the sidewalk, pavement, or street satisfies the Overseer of Streets that the opening is properly protected by a balustrade, or coping of durable material, and furnishes the city with a bond in the amount set by the City Council for the benefit of any person who might suffer an injury or damage by reason of the use of the stairway, cellarway, basement way, or entrance.

§ 97.09 EXCAVATIONS AND EXPOSURES; BARRICADES AND LIGHTS.

Any owner or occupant engaged in construction or demolition of any building or improvement upon or near the public ways and property shall protect all excavations or exposures of any kind by suitable barricades or guards by day and by warning lights at night. The failure, neglect, or refusal of the owner or occupant to erect and maintain such protections shall constitute a violation of this section, and the city may stop all work upon the buildings and improvements until suitable protections are erected and maintained in the required manner.

§ 97.10 GUTTERING AND EAVE SPOUTS.

It shall be unlawful for any person to erect or maintain any dwelling house or business building within the limits of the city where the dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters 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.

§ 97.11 PROHIBITED OBSTRUCTIONS.

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

(B) The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property permits or suffers to remain on any premises owned or controlled by him or her any hedge, shrubbery, bush, or similar growth within two 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 such similar growth.

(C) Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, and interfering with the use, making, or construction of any public improvement or so that the roots thereof interfere with any utility wire or pipe shall be deemed an obstruction. Such trees and shrubs and their roots may be removed by the city at the expense of the owner of the property upon which the trees or shrubs are partially or wholly located if the owner fails or neglects, after notice, to do so.

(D) When any obstruction described in this section is determined to exist, the city may proceed against the owner or occupant of the property adjacent to the sidewalk space as provided in § 91.21. Penalty, see § 10.99

§ 97.12 TREES IN SIDEWALK SPACE.

(A) No person shall plant any tree or allow any tree to grow within the sidewalk space without first making a written or verbal application to and receiving a written permit from the Overseer of Streets upon payment of the fee, if any, established by the City Council.

(B) Any tree planted within the sidewalk space after the adoption of this prohibition shall be deemed to be unlawfully planted and growing and may be determined to be a nuisance. Nothing in this section shall be construed to apply to any trees growing within the sidewalk space prior to the adoption of this prohibition.

(C) When any such tree is determined to be a nuisance, the city may proceed against the owner or occupant of the property adjacent to the sidewalk space. Penalty, see § 10.99

§ 97.13 OVERHANGING BRANCHES.

(A) The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which there extend the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least eight feet above the surface of the walk and at least 14 feet above the surface of the street or to the heights otherwise specified by the City Council.

(B) Whenever the branches or limbs of any tree extend over streets or sidewalks contrary to such provisions so as to interfere with the lighting of the street from street lights or with the convenience of the public using the street or sidewalk, the city may proceed against the owner or occupant of the property abutting or adjacent to the street or sidewalk. Penalty, see § 10.99

§ 97.14 SIGNS AND CANOPIES.

(A) No person shall erect or maintain any sign, signboard, poster, or rigid canopy over any street, sidewalk, or alley or on other public property without having first obtained a permit therefor. Permits for signs, signboards, posters, and canopies shall be issued by the City Clerk, subject to the approval of the Overseer of Streets, upon the payment of the fee, if any, established by the City Council.

(B) All signs, signboards, posters, 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 them being dislodged by ordinary winds or falling from other causes.

(C) No sign, signboard, poster, 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.

(D) Upon a determination that a sign, signboard, poster, or canopy is in violation of this section, the city may proceed against the owner or occupant of the premises where such the sign, signboard, poster, or canopy is located.

Penalty, see § 10.99

§ 97.15 CUTTING INTO PAVING, CURB, OR SIDEWALK.

(A) 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. Before any person obtains a permit, he or she shall inform the City Clerk of the place where such cutting is to be done and it shall be the duty of the Overseer of Streets to inspect the proposed place of entry into the paving, sidewalk, or curb.

(B) When cutting into any paving, curb, or sidewalk, it shall be the duty of the party to comply with such rules and regulations as may be prescribed by the Council or the City Engineer. When the applicant is ready to close the opening made, he or she shall inform the Overseer of Streets, who shall supervise and inspect the materials used and the work done in closing the opening.

(C) It shall be discretionary with the Council to order the Overseer of Streets, under the supervision and inspection of the City Engineer or the committee of the Council on the streets and alleys, to do the cutting and closing of the paving, curb, or sidewalk and charge the costs thereof to the party who obtained the permit. The Council may consent to the cutting and closing of the paving, curb, or sidewalk by the party holding the permit.

(D) Before any permit is issued by the Council, the applicant for the permit shall deposit with the City Treasurer a sum set by resolution of the Council for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per square foot cost of construction basis. The deposit shall be retained by the city for the purpose of replacing the paving, curb, or sidewalk in the event the work is done by the city. If the Board elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be

retained by the city until the work is completed to the satisfaction of the Overseer of Streets or of the committee of the Council on streets and alleys.

(E) In addition to making the deposit, the applicant shall, before any permit is issued, execute a bond to the city with a good and sufficient surety to be approved by the Council in a sum set by resolution.

§ 97.16 HEAVY EQUIPMENT.

(A) It shall be unlawful for any person to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing.

(B) 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, except that where heavy vehicles, structures, and machines move along paved or unpaved streets the city police are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed.

SALE AND ACQUISITION OF PROPERTY; PUBLIC WORKS

§ 97.30 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 that 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 three 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 city election held therein and is filed with the City Council, that 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 match 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 nonregistration 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 one 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 one 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 seven 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)

§ 97.31 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 three prominent places within the city for a period of not less than seven 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 seven 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)

§ 97.32 ACQUISITION OR CONSTRUCTION OF PUBLIC BUILDINGS; ELECTION REQUIREMENTS.

(A) The city 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, city building, or community house for housing city enterprises and social and recreation purposes, and other public buildings, including the construction of buildings authorized to be constructed by Neb. RS Chapter 72, article 14, and including construction of buildings to be leased in whole or in part by the city to any other political or governmental subdivision of the state authorized by law to lease such buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the city.

(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 city at a general city election or at an election duly called for that purpose, or as set forth in division (D) of this section, and be adopted by a majority of the electors voting on such 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 city 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 city equal in number to 15% of the registered voters of the city voting at the last regular city 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 collected within the 30-day period, but the filing 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 city at a general city 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 one 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 § 97.34. (Neb. RS 17-953.01)

(D) (1) The Mayor and City Council adopting the proposition to make such purchase or erect such building or buildings for the purposes set forth in division (A) of this section shall have the power to borrow money and pledge the property and credit of the city upon its negotiable bonds. No such bonds shall be issued until after the same have been authorized by a majority vote of the electors voting on the proposition of their issuance, at a general city election or at a special election called for the submission of such proposition. The question of such purchase or erection of such a building or buildings, as set forth in division (A) of this section, and the question of the issuance of the negotiable bonds referred to in this division may be submitted as one question at a general city or special election if so ordered by resolution or ordinance.

(2) Notice of the time and place of the election shall be given by publication in some legal newspaper printed in or of general circulation in the city three successive weeks immediately prior thereto.

(3) No such election for the issuance of such bonds shall be called until a petition therefor signed by at least 10% of the legal voters of the city has been presented to the City Council. The number of voters voting at the last regular city election prior to the presenting of the petition shall be deemed the number of votes in the city for the purpose of determining the sufficiency of the petition.

(4) The question of bond issues for such purpose in the city when defeated shall not be resubmitted for six months from and after the date of such election.

(5) When the building to be constructed is to be used by the state or its agency or agencies under a lease authorized by Neb. RS Chapter 72, article 14, or the building is to be leased by any other political or governmental subdivision of the state, when the combined area of the building to be leased by the state or its agency or agencies and the political or governmental subdivision of the state is more than 50% of the area of the building, and when such sum does not exceed \$2,000,000, then no such vote of the electors will be required.

(Neb. RS 17-954)

§ 97.33 ACQUISITION OF REAL PROPERTY; APPRAISAL.

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

(Neb. RS 13-403)

§ 97.34 ACQUISITION OF REAL PROPERTY; PUBLIC MEETING; ACCESS FOR RECREATIONAL USE.

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

(B) The city 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)

§ 97.35 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 city 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 city that is not subject to a permit from the Department of Natural Resources; and

(5) The work of employees and agents of the city 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 city to be designed or supervised by an engineer or unless legal requirements are imposed upon the city as a part of a public water supply; (Neb. RS 81-3453)

(D) For the purpose of this section, the city is considered a public service provider if it appoints a City Engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work.

(Neb. RS 81-3423)

§ 97.36 SPECIAL ASSESSMENTS FOR PUBLIC WORKS OR IMPROVEMENTS; NOTICE TO NONRESIDENT PROPERTY OWNERS.

(A) Before any political subdivision or special taxing district for public works or public improvements shall be formed, and before the city or any political subdivision or special taxing district may impose any special assessment for public works or public improvements, a copy of any notice required to be published by law 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)

(B) The City Clerk or any other person upon whom the duty is imposed by law to publish notice required by law in regard to the formation of a special taxing district for public works or public improvements shall mail by certified mail with return receipt requested a copy of the published notice in regard to the formation of any special taxing district within the city to the last-known address as shown on the current tax rolls of each nonresident property owner.

(Neb. RS 13-311)

(C) The City Clerk or any other person upon whom the duty is imposed by law to publish notice required by law in regard to any special assessment by a special taxing district shall mail by certified mail with return receipt requested a copy of such notice to be published to the last-known address as shown on the current tax rolls of each nonresident property owner.
(Neb. RS 13-312)

(D) The failure of the City Clerk any other person upon whom the duty is imposed by law to mail a copy of a published notice as provided in this section shall invalidate the assessment against the property involved while permitting all other assessments and procedures to be lawful.
(Neb. RS 13-313)

(E) For the purpose of this section, 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 and who is a record owner of property within the boundaries of the city, special assessment district, or taxing district involved.
(Neb. RS 13-314)

SIDEWALKS

§ 97.50 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. Unless the City Council has provided otherwise, all sidewalks within the business district shall be cleaned within five 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, and sidewalks within the residential areas of the city shall be cleaned within 24 hours after the cessation of the storm. Penalty, see § 10.99

§ 97.51 USE OF SPACE BENEATH.

No person shall be allowed to keep or use the space beneath the sidewalk lying between lot line and curb line unless a permit has been obtained from the City Council. Before any permit is granted, the applicant shall submit plans and specifications of any present or proposed construction to the City Engineer. If the plans or specifications are disapproved by the Engineer, no permit shall be granted. All permits hereafter granted shall continue only upon the condition that the party receiving them builds, maintains, and keeps in repair a sidewalk over the space used or constructed to be used and pays all

damages that may be sustained by any person by reason of such use or by reason of the sidewalk being defective or in a dangerous condition. As a condition precedent to the issuance or continuance of any permit for the use of any space underneath the city sidewalks as contemplated in this section, the City Council may require the applicant to furnish a bond to the city as obligee for the benefit of any person who may suffer an injury or damage by reason of such use. The bond shall be in such sum as the City Council, in its discretion, may designate.

Penalty, see § 10.99

§ 97.52 CONSTRUCTION AT OWNER'S INITIATIVE.

(A) Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as provided in this section. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

(B) The owner shall make application in writing for a permit and file such application in the office of the City Clerk. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The Overseer of Streets shall issue the desired permit unless good cause appears why the permit should be denied, except that if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the Overseer of Streets shall submit the application to the City Council for determination as to whether the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed, such sidewalk at any other location, grade, or elevation than so designated by the city. All sidewalks shall be built and constructed on the established grade or elevation, and if there is no established grade, then on the grade or elevation indicated by the Overseer of Streets.

§ 97.53 CONSTRUCTION AND REPAIR AT CITY 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 ten 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 City Council, after having received due notice to do so, the Mayor and City 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 City Council.

(C) Assessments made under the provisions of this section shall be made and assessed in the following manner:

(1) Such assessment shall be made by the City Council at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and the amount charged against the same, which, with the vote thereon by yeas and nays, shall be spread at length upon the minutes; and notice of the time of holding such meeting and the purpose for which it is to be held, shall be published in some newspaper published or of general circulation in the city at least four weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed; and

(2) All such assessments shall be known as special assessments for improvements and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other city taxes.

(Neb. RS 17-524)

Statutory reference:

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

STREETS AND ALLEYS

§ 97.65 DEDICATION TO PUBLIC USE.

No street or alley which shall hereafter be dedicated to public use, by the proprietor of ground in the city, shall be deemed a public street or alley, or be under the use or control of the City Council, unless the dedication shall be accepted and confirmed by an ordinance especially passed for such purpose.

(Neb. RS 17-567)

§ 97.66 GRADING, PAVING, AND OTHER IMPROVEMENTS.

The city has the power to provide for the grading and repair of any street, avenue, or alley and the construction of bridges, culverts, and sewers. 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)

Cross reference:

Other provisions on grading and paving, see § 97.02

Statutory reference:

Acquisition of additional land or easement, see Neb. RS 18-1705

Boundary street with county or another municipality, see Neb. RS 18-2005

Limited street improvement districts, see Neb. RS 19-2416

§ 97.67 IMPROVEMENTS WITHOUT PETITION OR CREATION OF DISTRICT.

(A) The city 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 one continuous paved street, but the portion to be so improved shall not exceed two 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 of not to exceed one block on either side of that 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 one block from that major traffic street.

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

(C) In order to defray the costs and expenses of these improvements, the Mayor and City Council 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)

§ 97.68 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 that manner as shall be provided by ordinance.

(2) Whenever any street, avenue, alley, or lane is vacated, the same shall revert to the owners of the abutting real estate, one-half on each side thereof, and become a part of that 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 one side of the center thereof, the title to the land shall vest in the owner of the abutting property and become a part of that 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 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)

§ 97.69 VACATING PUBLIC WAYS; PROCEDURE.

(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.

(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.* 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 that 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) *Consent; waiver.* 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) *Ordinance.* 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.

(C) The Mayor shall appoint three or five or seven 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.

§ 97.70 CROSSINGS.

The City Council may order and cause to be constructed, under the supervision of the Overseer of Streets, those street, avenue, and alley crossings as the City Council deems necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the City Clerk, the City Clerk shall refer the application to the Overseer of Streets, who shall investigate and make a recommendation to the City Council. Action by the City Council on the application, whether the application is approved or rejected, shall be considered final.

§ 97.71 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 those streets shall retain those numbers as the City Council may require. It shall be the duty of the Overseer of Streets, upon the erection of any new building, to assign the proper numbers to the building and give notice to the owner and occupant of the same.

Penalty, see § 10.99

§ 97.72 DRIVEWAY APPROACHES.

(A) The Overseer of Streets 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 City 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 Overseer of Streets may cause the work to be done and assess the cost upon the property served by the approach.

(Neb. RS 18-1748) Penalty, see § 10.99

§ 97.73 EXCAVATION.

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 Overseer of Streets authorizing those excavations. Penalty, see § 10.99

§ 97.74 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 Overseer of Streets. Penalty, see § 10.99

§ 97.75 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. Penalty, see § 10.99

§ 97.76 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. Penalty, see § 10.99

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

It shall be unlawful to place, push, or deposit snow, sleet, ice, or mud, or any debris, including leaves, grass, and branches, from private property onto the streets of the city. Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-557