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CHAPTER 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: TRESPASSING

It shall be unlawful for any person, knowing that he is not licensed or privileged to do so, to enter or secretly remain in any building or occupied structure or any separately secured or occupied portion thereof; or enter or remain in any place as to which notice against trespass is given by (A) actual communication to the actor; or (B) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or (C) fencing or other enclosure manifestly designed to exclude intruders. (Neb. Rev. Stat. §28-520, 28-521) (Class 1, 2 or 3)

SECTION 3-102: MALICIOUS DESTRUCTION OF PROPERTY

It shall be unlawful for any person within the corporate limits to purposely, willfully, or maliciously injure in any manner, or destroy any real or personal property of any description belonging to another. (Neb. Rev. Stat. §28-572, 28-573)

SECTION 3-103: MALICIOUS MISCHIEF

It shall be deemed a misdemeanor for any person to willfully destroy, mutilate, deface, injure, or remove any tomb, monument, gravestone, structure, or thing of value which is located upon any government property, cemetery, or property of historic value. Conviction of such misdemeanor shall be punishable by a fine not less than \$5.00, nor more than \$100.00. Any such offender shall also be liable, in an action for trespass in the name of the beneficial holder of said property, for all damages which arise from the commission of such unlawful act. (Neb. Rev. Stat. §12-519)

SECTION 3-104: ASSAULT AND BATTERY

It shall be unlawful for any person to assault, threaten, strike, batter or injure any other person or persons. (Neb. Rev. Stat. §28-411)

SECTION 3-105: STALKING

Any person who willfully and maliciously harasses another person with the intent to terrify, threaten or intimidate commits the offense of stalking. For purposes of this section (A) "harass" shall mean to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose, and (B) "course of conduct" shall mean a pattern of conduct composed of a series of acts of following, detaining, restraining the personal liberty of or stalking the person or repetitiously telephoning him/her.

SECTION 3-106: DISTURBING THE PEACE

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

SECTION 3-107: DISORDERLY CONDUCT

It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the City by clamor or noise, intoxication, drunkenness, fighting, using of obscene or profane language in the streets or other public places, or is otherwise indecent or disorderly conduct or lewd or lascivious behavior. (Neb. Rev. Stat. §17-129, 17-556)

SECTION 3-108: GAMBLING PREMISES

It shall be unlawful for any person to set up or keep a gambling house, table, room, place, or gambling device at which a game of chance may be played for money, property, or other valuable article representing money, property, or other valuable thing. It shall be further unlawful for any person to suffer or permit such gambling device to be set up, kept, or used for the purpose of gambling in or upon any premises or tenement belonging to or under the control of any such person. (Neb. Rev. Stat. §28-941 through 28-945)

SECTION 3-109: BAWDY HOUSES

It shall be unlawful for any person to erect, establish, maintain, own, use, or lease any building, room, or other structure for the purpose of lewdness, assignation, or prostitution. (Neb. Rev. Stat. §28-910)

SECTION 3-110: WINDOW PEEPING

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

SECTION 3-111: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENTS

It shall be unlawful for any person, except a law enforcement officer in the discharge of his/her official duty, to discharge a slingshot, paint ball gun, blow gun, air rifle, an arrow from a bow, or other like instruments capable of launching a dangerous projectile therefrom at any time or under any circumstances within the City or within a one-half mile radius of the City where the projectile from the piece could reach the city limits, provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the person so discharging the firearm has written permission from the City Council.

SECTION 3-112: PROHIBITED FENCES

It shall be unlawful for any person to erect or cause to be erected and maintain any barbed wire or electric fence within the corporate limits where such fence abuts a public sidewalk, street or alley. (Neb. Rev. Stat. §18-1720, 28-1321, 39-705)

SECTION 3-113: APPLIANCES IN YARD

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless he shall first remove all doors and make the same reasonably safe. (Neb. Rev. Stat. §18-1720, 28-1321)

SECTION 3-114: TRASH

It shall be unlawful for any person to willfully, maliciously or negligently place or throw upon the premises of another any filth, garbage, leaves, papers or other matter to the annoyance of the owner or occupant thereon. (Neb. Rev. Stat. §28-523)

SECTION 3-115: OBSTRUCTION OF PUBLIC WAYS

It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to or inconsistent with the public use of the same. (Neb. Rev. Stat. §17-142, 17-555, 17-557, 39-703, 39-704)

SECTION 3-116: OBSTRUCTION OF WATER FLOW

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe, or hydrant. (Neb. Rev. Stat. §17-555, 17-970)

SECTION 3-117: REMOVING DIRT

It is hereby declared unlawful for any person to remove, disturb, or take away from any street, alley, or public grounds any dirt, earth, stones, or other materials forming a part of such street, alley, or public grounds without first having obtained written permission to do so from the City Council.

SECTION 3-118: CURFEW; MINORS

It shall be unlawful for any minor under the age of 17 years to travel on or be on any public street, alley, or other public place between the hours of 12:00 midnight of any day and 5:00 A.M. of the following day except under the following circumstances:

A. The minor is accompanied by a person 18 years or older authorized by the parent to take the parent's place in accompanying the minor for a designated period of time and specific purpose within a specified area;

B. The minor is exercising first amendment rights protected by the Constitution of the United States, such as free exercise of religion, freedom of speech, and the right of assembly;

C. In case of a bona fide emergency, including the prevention of bodily harm or property damage;

D. The minor is directly traveling to or returning home from the commencement or termination of employment or school-sponsored activity.

SECTION 3-119: OBSTRUCTION OF CITY PERSONNEL

It shall be unlawful for any person to obstruct, interfere, or impede any municipal appointed official, public works employee, or other municipal employee when he/she is acting in the official capacity of the City or performing any act which is within the scope of the lawful duty or authority of said municipal position. (Ord. No. 2009-2, 1/27/09)

Article 2 – Dogs

SECTION 3-201: INOCULATION, VACCINATION OR VACCINATION FOR RABIES; DEFINED

The terms "inoculation," "vaccination," or "vaccination for rabies" shall mean the inoculation of a dog with a vaccine approved by the Lincoln-Lancaster County Department of Health or the Humane Society of Lincoln, Nebraska, for the prevention of rabies.

SECTION 3-202: ANIMAL CONTROL AGENCY; DEFINED

The term "agency" or "animal control agency" shall mean any public agency as defined within the Interlocal Cooperation Act (Neb. Rev. Stat. §13-101 through 13-107), or any organization determined by the mayor and City Council to be knowledgeable in the area of animal control and authorized by the mayor and City Council to act as the animal control agency for the City. (Am. by Ord. No. 92-1, 1/9/92)

SECTION 3-203: OWNER; DEFINED

Any person who shall harbor or permit any dog to remain in or about his or her house, store, or enclosure, or to remain to be fed for ten days or more, shall be deemed the owner and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed. (Neb. Rev. Stat. §54-606, 71-4401)

SECTION 3-204: LICENSE REQUIRED

Any person who shall own, keep, or harbor a dog over the age of six months within the City shall within 30 days after acquisition of the said dog acquire a license for each such dog annually by or before March 31 of each year. The said tax shall be delinquent from and after April 30. Any dog brought into the City after April 1 shall obtain a license for such dog within 30 days or when the dog reaches the age of six months, whichever occurs first; provided, if it is less than six months to the expiration of such license, the fee shall be one-half the full year's license fee.

SECTION 3-205: LICENSE ISSUANCE

Any owner may be issued a license for his/her dog(s) upon the payment of a fee set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during office hours. The said owner shall also present a certificate issued by a licensed veterinarian or other person authorized by law to administer rabies inoculations as evidence that each such dog has been inoculated for rabies effective for the entire ensuing license period. Such license shall set forth the following information:

- A. Name and address of the owner.
- B. License number of the tag issued to the dog.
- C. Breed, age, color, name and sex of dog.
- D. The name of the person inoculating said dog for rabies.
- E. The date the present rabies inoculation shall expire.
- F. Such other information as the City may require from time to time to effectively enforce this ordinance.

(Am. by Ord. No. 2007-10, 6/26/07)

SECTION 3-206: METALLIC TAG; LOST TAG

The clerk shall issue to the owner a metal tag bearing the license number of the license, the inscription "Hickman Dog Tag" and the year for which issued. In the event of loss of a tag, a replacement tag and number may be obtained from the clerk for a fee set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during office hours.

SECTION 3-207: REMOVAL OF TAGS

It shall be unlawful for any person to remove or cause to be removed, the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof. (Neb. Rev. Stat. §17-526)

SECTION 3-208: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper or harbinger of any dog to permit or allow such dog to wear any other tag than the identical one issued for such dog, and for the license year for which issued.

SECTION 3-209: RUNNING AT LARGE

It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the City. Any dog found to be running at large may be impounded by the City of Hickman, the animal control agency, its officers, agents or employees. A dog found to be "running at large" shall mean any dog 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.

SECTION 3-210: VICIOUS OR DANGEROUS DOGS

It shall be unlawful for any person to own, keep, harbor or allow to be in or upon any premises occupied by him or her, or under his/her charge or control within the corporate limits of the City, any dog of a cross, dangerous, or ferocious disposition as manifested by biting, habitual snapping, or growling or otherwise acting so as to endanger any person or domestic animal unless:

- A. Said dog is secured on the premises of the owner by a chain, enclosed kennel, or fence at least 6 feet in height, so that the dog cannot be closer than 6 feet to the public street, sidewalk or property line;
- B. Said dog is secured in such a manner that it cannot go beyond the property

line of the owner; and

C. Said dog is secured in such a manner that it will not injure or pose a threat of injury to any person who is lawfully on the premises of the owner.

SECTION 3-211: 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, this section shall not apply to city officials acting within their power and duty. (Neb. Rev. Stat. §28-1002)

SECTION 3-212: BARKING AND OFFENSIVE BEHAVIOR

A. It shall be unlawful for any person to own, keep, or harbor any dog within the city limits which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood, person or persons. This section shall not apply to licensed veterinarians or commercial kennels, which as a regular part of their business board or train dogs for a fee.

B. The enforcement of the provisions of these regulations shall be under the direction of the sheriff. For the purpose of enforcing the above regulations or abating any nuisance existing hereunder, the sheriff may enter upon private premises.

C. Any persons upon whom a duty is placed by the provisions of this section who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this section, shall be guilty of a Class V misdemeanor.

D. Each day that a violation of any provision of this section continues shall constitute a separate and distinct offense, and shall be punishable as such. The penalties herein provided shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this section provided. (Am. by Ord. No. 98-19, 8-27-98)

SECTION 3-213: DESTRUCTION OF PROPERTY; LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog owned, kept, or harbored by him or under his charge or control to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Neb. Rev. Stat. §54-601, 54-602)

SECTION 3-214: RABIES; PROCLAMATION

It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid dogs 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. Each dog may be harbored by any good and sufficient means in a house, garage, or yard at the premises where the said owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning, keeping, or harbor-

ing any dog to confine the same as herein provided. (Neb. Rev. Stat. §17-526)

SECTION 3-215: RABIES SUSPECTED; IMPOUNDMENT

Any dog or other animal owned by a person and suspected of being afflicted with rabies or any dog or other animal owned by a person and not vaccinated in accordance with the provisions set forth above which has bitten any person or has caused an abrasion of the skin of any person shall be seized by a city law enforcement officer or animal control officer and shall be impounded under the supervision of a licensed veterinarian or public health authority for not less than ten days. If, upon examination by a veterinarian, the dog or other animal has no clinical signs of rabies at the end of such impoundment, it shall be released to the owner upon payment of the costs of said impoundment by the owner or, in the case of a stray, shall be disposed of in whatever manner deemed best by city law enforcement. (Neb. Rev. Stat. §71-4406)

SECTION 3-216: RABID ANIMALS; CAPTURE IMPOSSIBLE

Any law enforcement officer shall have the authority to kill any domestic animals with the characteristics of rabies which make capture impossible because of the danger involved.

SECTION 3-217: ATTACKS OR BITES; OBSERVATION

When the owner of any dog shall suspect, believe or know that his dog has attacked or bitten any person, he shall immediately cause said dog to be placed under the care and/or supervision of the animal control agency or a licensed veterinarian. This observation period shall continue for ten days or until it is determined by the patient's physician that rabies could not have been transmitted to the person attacked or bitten, whichever time is less. Any such dog which is found to be rabid shall be destroyed in a humane manner as soon as possible and the owner shall notify the person attacked or bitten immediately. Dogs under observation shall be released in the same manner and under the same requirements as if they were impounded for running at large.

SECTION 3-218: INTERFERENCE WITH OFFICIALS

It shall be unlawful for any person to hinder, delay, or interfere with any city official who is performing any duty enjoined upon him/her by the provisions of this article. (Neb. Rev. Stat. §28-906)

SECTION 3-219: EXCEPTIONS TO PROVISIONS

Notwithstanding any other provisions herein, the provisions of this article shall not be deemed to apply to or in any way interfere with the ordinary conduct and operation of veterinary clinics, biological laboratories or pet shows, when conducted within the City.

Article 3 – Kennels

SECTION 3-301: DEFINED

A. "Commercial kennel" shall mean an establishment where three or more dogs, cats, or other household pets, or nonfarm/nondomestic animals or any combination of

five or more thereof at least four months of age are groomed, bred, boarded, trained, or sold as a business.

B. This article shall not apply to animal shelters operated by licensed veterinarians, nor shall it apply to licensed pet stores.

SECTION 3-302: DOG LICENSES REQUIRED

Within 30 days after acquisition of each dog, the owner shall acquire a license for it annually by or before March 31 each year. The said tax will be delinquent from and after April 30. Any dog brought into the City after April 1 shall obtain a license for such dog with 30 days or when the dog reaches the age of six months, whichever occurs first. License fees shall be set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during office hours. (Am. by Ord. No. 2007-10, 6/26/07)

SECTION 3-303: KENNEL LICENSE REQUIRED

It is unlawful for any person, corporation, partnership or other entity to maintain, keep, conduct or operate any kennel within the zoning limits of the City without first obtaining a license therefor. The licensing year shall be the same as that for individual dogs.

SECTION 3-304: UNLICENSED KENNELS; NUISANCE

It is and shall be a nuisance for any person, corporation, partnership or other entity to maintain, keep, conduct or operate any kennel within the zoning limits of the City without first obtaining a license therefor.

SECTION 3-305: LICENSE; APPLICATION

A. Any person or legal entity seeking a kennel license shall make written application to the City Council. Such application shall state in detail the type, number and gender of animals to be held in such kennel, describe the kennel facility in detail and provide such other information as may be required by the City Council. Such application shall also have attached thereto the consent of all property owners or occupants of lands or lots adjoining the land upon which the proposed kennel is to be located.

B. In the event the City Council determines that such kennel would not constitute a nuisance, it shall issue a license on such terms and conditions as it deems appropriate. Such license shall be on an annual basis and may be revoked after notice and hearing for violation of any term or condition of the issuance of the license. The annual license fee shall be set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during office hours. No license shall be issued until such fee is paid.

SECTION 3-306: REGULATIONS

Every place used as a kennel shall be kept in a clean and sanitary condition and no refuse or waste material shall be allowed to remain thereon for more than 24 hours. All animals shall be humanely treated and any animal having any disease shall be properly isolated and treated.

Article 4 – Animals Generally

SECTION 3-401: ANIMALS; NUISANCE; BANNED FROM CITY

The keeping or maintenance within the corporate limits of the City any horse, mule, sheep, cow, goat, swine or other livestock be and hereby is determined to be a nuisance. Any person, persons, or other legal entity keeping or maintaining such animals within the corporate limits of the City shall be guilty of violation of this section. (Neb. Rev. Stat. §17-123)

SECTION 3-402: ANIMALS; 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 driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way. (Neb. Rev. Stat. §17-526, 17-547)

SECTION 3-403: POULTRY; BANNED FROM CITY

It shall be unlawful for any person to keep or maintain within the corporate limits any chickens, turkeys, ducks, geese, or any other poultry. (Neb. Rev. Stat. §17-547)

SECTION 3-404: POULTRY; RUNNING AT LARGE

It shall be unlawful for any person to allow chickens, turkeys, ducks, geese, or any other poultry to run at large within the corporate limits. (Neb. Rev. Stat. §17-547)

SECTION 3-405: DANGEROUS ANIMALS; DEFINITION

"Dangerous animal" means and includes 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, individually or as a species, known tendencies to do so, or which because of its size or other characteristics would constitute a danger to human life or property if not kept or maintained in a safe manner or in secure quarters, including but not limited to the following animals which shall be deemed to be dangerous per se:

Bears, wolves, lions, tigers, panthers, bobcats, elephants, bison, poisonous snakes and spiders, alligators, crocodiles, anacondas, pythons, boa constrictors, and piranhas.

SECTION 3-406: KEEPING OF DANGEROUS ANIMALS PROHIBITED

No person shall keep, shelter, or harbor for any purpose within the City a dangerous animal as defined herein.

SECTION 3-407: ENCLOSURES

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

which the said enclosure is located.

SECTION 3-408: HOWLING AND OFFENSIVE CATS

It shall be unlawful for any person to own, keep or harbor any cat which by loud, continued or frequent howling or meowing shall annoy or disturb any neighborhood or person in the City.

SECTION 3-409: CRUELTY; DEFINITIONS

"Abandon" shall mean 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 and welfare.

"Animal" shall mean any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild animal.

"Cruelly mistreat" shall mean to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald or otherwise set upon any animal.

"Cruelly neglect" shall mean 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 and welfare.

"Humane killing" shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering.

"Law enforcement officer" shall mean county or deputy sheriff, any Nebraska State Patrol trooper, or any other public official authorized by the City to enforce state or local animal control laws, rules, regulations and/or ordinances.

(Neb. Rev. Stat. §28-1008)

SECTION 3-410: CRUELTY TO ANIMALS

No person shall be cruel to any animal within the confines of the City. A person commits cruelty to animals if, except as otherwise authorized by law, he/she intentionally or recklessly (A) subjects any animal to cruel mistreatment; (B) subjects any animal in his/her custody to cruel neglect; (C) abandons any animal; or (D) kills or injures any animal by the use of firearms, stones, clubs, poisons, or any other means unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the said animal. (Neb. Rev. Stat. §28-1014)

SECTION 3-411: CRUELTY; LAW ENFORCEMENT OFFICER

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 or issue a citation to the owner as prescribed by law. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence. (Neb. Rev. Stat. §28-1012)

SECTION 3-412: VICIOUS ANIMALS

A. All persons owning or having custody of or control over an animal or animals, whether licensed or unlicensed, which attack, bite or attempt to bite a person or persons, or domestic animals or poultry, or is vicious or dangerous, or chases, maims or kills domestic animals or poultry, are required to keep such animal(s) from running at large and from going into the streets and other public places within the City unless muzzled and on a leash, and shall keep such animal(s) under control and prevent such animal(s) from attacking or injuring persons lawfully on the premises of the owner.

B. The mayor or his/her designee, upon being satisfied that there is a vicious or dangerous animal at large, shall, if practicable, notify in writing the owner or person in control or in charge of such animal to restrain the same from going at large and to control it on the premises of the owner. The mayor or his/her designee may or may not, at his/her discretion, institute a prosecution for violation of subsection (A) above occurring before such notice is given. The right of the mayor or his/her designee to prosecute for the violation of subsection (A) herein shall not be exclusive.

C. If satisfied that an animal is vicious and has without provocation actually bitten or attacked a person or a domestic animal or fowl, the mayor may, if the animal is found at large within the City, cause it to be destroyed without previous notice to the owner, or he/she may, without killing the animal, notify the owner as provided in subsection (B) hereof and prosecute the owner for violation of subsection (A) hereof.

SECTION 3-413: PITTING; DEFINITIONS

“Bearbaiting” shall mean the pitting of any animal against a bear.

“Cockfighting” shall mean the pitting of a fowl against another fowl.

“Dogfighting” shall mean the pitting of a dog against another dog.

“Pitting” shall mean bringing animals together in combat.
(Neb. Rev. Stat. §28-1004)

SECTION 3-414: PITTING; PROHIBITED

No person shall knowingly promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting or pitting an animal against another, nor shall any person knowingly receive money for the admission of another person to a place kept for such purpose. No person shall knowingly own, use, train, sell or possess an animal for the purpose of animal pitting, neither shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him or her. (Neb. Rev. Stat. §28-1005)

SECTION 3-415: PITTING; SPECTATORS PROHIBITED

No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in Section 3-414. (Neb. Rev. Stat. §28-1005)

Article 5 – Nuisances

SECTION 3-501: WEEDS AND GRASSES, LITTER; DEFINITIONS

A. The terms "weeds," "grasses," or "worthless vegetation" shall mean any weed or grass growth of more than 10 inches in height. Weeds shall include, but not be limited to, bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant and ragweed.

B. 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. Offal and dead animals;
4. Any machine, vehicle, 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;
5. Any motor vehicle without a current license and not housed in a storage or other building; and,
6. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.

(Am. by Ord. No. 2014-07, 4/22/14)

SECTION 3-502: WEEDS OR GRASSES; PUBLIC NUISANCE

It is hereby declared to be a public nuisance to permit weeds, grasses, or worthless vegetation to grow in excess of 10 inches on any property within the corporate limits of the City. (Am. by Ord. Nos. 2012-09, 4/22/12; 2014-07, 4/22/14)

SECTION 3-503: LITTER; PUBLIC NUISANCE

It is hereby declared to be a public nuisance to permit the accumulation of litter on any property within the corporate limits of the City.

SECTION 3-504: WEEDS, GRASSES, LITTER; NOTICE OF NONCOMPLIANCE

Whenever the city administrator determines that any grass in excess of 10 inches or weeds of any height are growing on property within the City, or litter is found on any property, the designated code enforcement officer shall cause notice to be served upon the owner of the property on which grass, weeds or litter is located, and further upon the occupant thereof, by first class mail that is conspicuously marked as to its importance and by placing a sign on the property that states the nature of the nuisance(s), date of posting, and that the City will abate/remove the nuisance(s) within five days at the owner's cost, if unresolved. (Am. by Ord. No. 2014-07, 4/22/14)

SECTION 3-505: WEEDS, GRASSES, LITTER; FAILURE TO CORRECT; FINE

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice to correct, he/she shall be guilty of a misdemeanor and fined in a sum of not more than \$500.00. Each day's violation after the expiration of the five days' notice shall be a separate offense. (Am. by Ord. No. 2014-07, 4/22/14)

SECTION 3-506: WEEDS, GRASSES, LITTER; COST ASSESSED TO PROPERTY

In addition to filing a complaint for violation of this article, the City may cause the work to be done to abate the nuisance and assess the cost of the same against the property. In this event, however, the City shall comply with the notice and hearing requirements set forth in Sections 3-512, 3-513 and 3-514 set forth hereafter.

SECTION 3-507: DANGEROUS BUILDINGS; DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

K. Those existing in violation of any provision of this article, any provision of the

Fire Prevention Code, any provision of the county health rules and regulations or other applicable provisions of the ordinances of the City, including but not limited to the building code adopted by the City.

SECTION 3-508: DANGEROUS BUILDINGS; STANDARDS

The following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated, or demolished:

A. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired.

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

C. In any case where an unsafe or dangerous building or structure cannot be repaired so that it will no longer exist in violation of the terms or provisions of this article, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of an ordinance of this city or statute of the state, it shall be demolished.

SECTION 3-509: DANGEROUS BUILDINGS; PUBLIC NUISANCE

All unsafe or dangerous buildings or structures within the terms of this article are hereby declared to be nuisances and shall be repaired, vacated, or demolished as provided herein.

SECTION 3-510: BUILDING INSPECTOR

The building inspector, his/her authorized representatives, a general building contractor, county health official, or professional engineer shall, at the direction of the City Council:

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

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

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

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

SECTION 3-511: DANGEROUS BUILDINGS; PROCEDURE

If the building inspector or his/her representatives, a general building contractor, the county health official or a professional engineer designated by the City Council finds that a building or structure is unsafe or dangerous and a nuisance, the Council shall:

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

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

C. Direct the building inspector, or other designated official, to place a sign on the building or structure found to be unsafe or dangerous on its exterior near the main entrance which shall state that the building or structure is unsafe or dangerous for occupancy and use.

SECTION 3-512: FAILURE TO COMPLY

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the property, building or structure shall fail, neglect, or refuse to comply with the notice by or on behalf of the City to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, or shall fail to comply with the notice to abate grasses, weeds or litter, the City may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the City Council, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. In addition, the City may bring a civil action against the offending party to recover the cost of the work.

SECTION 3-513: DISPUTES

A. In the event that the owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure determined dangerous, disagrees with or disputes the information contained in the notice to abate, such person shall notify the city clerk with a written statement that sets forth the reasons for the disagreement or dispute and the relief requested. This written request shall be made within 10 days of mailing of the notice. If written notice is received by the city clerk within 10 days, a hearing shall be held before the City Council at a regularly scheduled monthly meeting. The clerk shall notify the person requesting the hearing, in writing, of the time, place, and date of the regular monthly meeting and shall place the name of the person on the agenda of such meeting.

B. The hearing before the City Council shall be shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and its decision shall be based on the evidence presented at the hearing. The person requesting the hearing may be represented by legal counsel or other representative, may present witnesses and offer evidence, and may examine and copy, at his/her own expense, and not less than three business days before the hearing, the records of the City regarding the inspection and notice. The City Council need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the

City Council shall be final unless appealed. Failure of the person to attend the hearing shall relieve the City Council of any further procedures before action is taken as set forth in a notice.

SECTION 3-514: APPEAL

Any person aggrieved by the decision of the City Council may appeal the decision to the District Court of Lancaster County. This appeal shall and must be taken within 30 days of the pronouncement of the Council's decision. The record and evidence made before the City Council shall become the record for purposes of appeal. All appeals shall be made on the record and not a trial de novo.

SECTION 3-515: IMMEDIATE HAZARD

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

Article 6 – Sexual Predators; Residency Restrictions

(Adopted by Ord. No. 2006-07, 6/27/06)

SECTION 3-601: DEFINITIONS

For purposes of this ordinance:

“Child care facility” means a facility licensed pursuant to the Child Care Licensing Act;

“Political subdivision” means a village, a city, a county, a school district, a public power district, or any other unit of local government;

“School” means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed in Neb. Rev. Stat. Chapter 79;

“Sex offender” means an individual who has been convicted of a crime listed in Neb. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

“Sexual predator” means an individual who is required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01, and who has victimized a person 18 years of age or younger.

(Neb. Rev. Stat. §29-4016) (Am. by Ord. No. 2011-08, 6/28/11)

SECTION 3-602: RESIDENCY RESTRICTIONS

A. *Prohibited Location of Residence.* It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility.

B. *Measure of Distance.* For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

(Neb. Rev. Stat. §29-4017)

SECTION 3-603: EXCEPTIONS

This ordinance shall not apply to a sexual predator who:

A. Resides within a prison or correctional or treatment facility operated by the state or a political subdivision;

B. Established a residence before July 1, 2006, and has not moved from that residence; or

C. Established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

(Neb. Rev. Stat. §29-4017)

SECTION 3-604: PENALTY

A person who violates this section shall be punished as provided generally in this chapter.

Article 7 – Penal Provisions

SECTION 3-701: VIOLATION; PENALTY

A. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a minimum of \$25.00 but not more than \$500.00 for each offense. A new offense shall be deemed committed each 24-hour period of such failure to comply.

B. For a first offense, an appearance in court may be waived by agreeing to pay the minimum fine and court costs. For a second offense within a 12-month period, an appearance in court may be waived by agreeing to pay a minimum fine of \$50.00 and court costs. For any third and subsequent offense within a 12-month period, no waiver shall be allowed.

(Am. by Ord. No. 2010-08, 4/27/10)

SECTION 3-702: ABATEMENT OF NUISANCE

Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever, in any

action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Neb. Rev. Stat. §18-1720, 18-1722)