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CHAPTER 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: OBSTRUCTING AN OFFICER

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

SECTION 3-102: HINDERING OR RESISTING ARREST

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

SECTION 3-103: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON

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

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

SECTION 3-104: DISCHARGE OF FIREARMS; DANGEROUS PROJECTILES

A. It shall be unlawful for any person, except an officer of the law in the performance of his or her official duty, to fire or discharge any gun or pistol within the City; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council.

B. It shall be unlawful for any person, except a law enforcement officer in the

discharge of his or 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.

(Neb. Rev. Stat. §17-556)

SECTION 3-105: STALKING

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

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

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

(Neb. Rev. Stat. §§28-311.02 through 28-311.04)

SECTION 3-106: FALSE REPORTING

It shall be unlawful for any person to:

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

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

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

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

E. Furnish material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an ongoing investigation and which actually results in causing or impeding such investigation.

(Neb. Rev. Stat. §28-907)

SECTION 3-107: CRIMINAL TRESPASS

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

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

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

1. Actual communication to the actor; or
2. Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

3. Fencing or other enclosure manifestly designed to exclude intruders except as otherwise provided in subsection (A).

(Neb. Rev. Stat. §§28-520, 28-521)

SECTION 3-108: PUBLIC INDECENCY

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

A. An act of sexual penetration as defined by Neb. Rev. Stat. §28-318(5);

B. An exposure of the genitals of the body done with intent to affront or alarm any person; or

C. A lewd fondling or caressing of the body of any other person of the same or opposite sex.

(Neb. Rev. Stat. §28-806)

SECTION 3-109: PUBLIC NUDITY; AIDING AND ABETTING

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

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

SECTION 3-110: SEX OFFENDERS AND PREDATORS

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

1. "Child care facility" means a facility licensed pursuant to the Child Care Licensing Act;
2. "Reside" means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;
3. "Residence" means a place where an individual sleeps, lives, or dwells, which may include more than one location and may be mobile or transitory;
4. "School" means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;
5. "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

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

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

C. Exceptions. This ordinance shall not apply to a sex offender or sexual predator who (1) resides within a prison or correctional or treatment facility operated by the state or a political subdivision; (2) established a residence before July 1, 2006, and has not moved from that residence; or (3) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sex offender's or sexual predator's residence at that location. (Neb. Rev. Stat. §§29-4016, 29-4017) (Am. Ord. No. 2011-08, 6/28/11)

SECTION 3-111: 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 3-112: CRIMINAL MISCHIEF

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger any person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$5,000.00. If the value is \$5,000.00 or more, the offense is a felony and not subject to prosecution under this code. (Neb. Rev. Stat. §28-519)

SECTION 3-113: 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.

SECTION 3-114: THEFT

A. For purposes of this section the definitions found in Neb. Rev. Stat. §28-509 shall apply; and the offenses described in subsections (B) through (H) shall exist when the value of the thing involved is under \$500.00.

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

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

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

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

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

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

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

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

(Neb. Rev. Stat. §§28-511 through 28-515, 28-517, 28-518)

SECTION 3-115: ASSAULT IN THE THIRD DEGREE; THREATS

It shall be unlawful for any person to intentionally, knowingly, or recklessly cause bodily injury to another person or threaten another in a menacing manner. It shall further be unlawful for any person to commit the above act in a fight or scuffle entered into by mutual consent. (Neb. Rev. Stat. §28-310)

SECTION 3-116: 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 belonging to or under the control of any such person. (Neb. Rev. Stat. §28-941 through 28-945)

SECTION 3-117: 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 3-118: DISTURBING AN ASSEMBLY

It shall be unlawful for any person or persons to disturb, interrupt, or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. (Neb. Rev. Stat. §17-556)

SECTION 3-119: DISTURBING THE PEACE

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

SECTION 3-120: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS

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

SECTION 3-121: CONSTRUCTION NOISE; HOURS

It shall be unlawful for any person to operate or permit the operation of any tools or equipment used in construction, drilling, or demolition work:

A. Between the hours of 9:30 p.m. and 7:30 a.m. the following day on any day in such a manner as to create a noise disturbance across a residential real property boundary or noise-sensitive zone.

B. This section shall not apply to the use of domestic power tools of a type normally found in the home.

C. This section shall not prohibit interior work that is not plainly audible beyond the property on which the work is performed.

D. This section shall not apply to:

1. Emergency work necessary to protect life or property or restore utility service;
2. Work performed by or at the direction of the City or another governmental entity when reasonably necessary for public health, safety, or

infrastructure; or

3. Work conducted pursuant to a temporary written exception issued by the City Administrator or authorized zoning enforcement officer because of weather, safety, engineering, concrete placement, or another circumstance requiring work outside the permitted hours.

SECTION 3-122: MINOR IN POSSESSION; MISREPRESENTATION BY MINOR

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

B. It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age or by any other method in any tavern or other place where alcoholic liquor is sold.
(Neb. Rev. Stat. §§53-180.01, 53-180.02, 53-180.05)

SECTION 3-123: CURFEW

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.
(Ord. No. 92-3, 10/7/92)

SECTION 3-124: LITTERING

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

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

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

1. "Litter" shall include all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state but does not include wastes of primary processes of farming or manufacturing.

2. "Waste material" shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(Neb. Rev. Stat. §§17-573, 28-523)

SECTION 3-125: DEPOSITING DEBRIS, SNOW, ETC. ON PUBLIC OR PRIVATE PROPERTY

A. It shall be unlawful to place, push, or deposit snow, sleet, ice, mud, or any lawn debris, including leaves, grass, and branches, from private property onto the streets or other public property.

B. 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.

(Neb. Rev. Stat. §§17-557, 28-523)

SECTION 3-126: POSTED ADVERTISEMENTS

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

SECTION 3-127: APPLIANCE OUTDOORS

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 or she shall first remove all doors, lids and locks to make the same reasonably safe. (Neb. Rev. Stat. §18-1720)

SECTION 3-128: 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 3-129: OBSTRUCTION OF WATER FLOW

A. Unless approved by the city engineer or other authorized city official, no person shall obstruct, alter, redirect, concentrate, collect, discharge, or otherwise modify the flow of water or stormwater in a manner that causes or is likely to cause damage to neighboring property, public infrastructure, drainage facilities, or the established drainage pattern of surrounding property.

B. No person shall connect to, discharge into, modify, obstruct or utilize a drainage facility located on property owned by another person without the legal right to do so and without any approval required by law.

C. Nothing in this section shall be construed to supersede recorded easements, approved grading or drainage plans, subdivision regulations, floodplain regulations, engineering standards, or other applicable law or to require the City to resolve a matter that is solely a private civil dispute.

SECTION 3-130: INJURY TO PLANTS AND TREES

It shall be unlawful for any person to purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any trees or their fruit or any shrub, plant, flower, or grass on any public or private property. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the City Council and the written permit of the council in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

SECTION 3-131: PARKS; INJURY TO PROPERTY; LITTERING

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

SECTION 3-132: 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 3-133: HEDGES, VEGETATION OBSTRUCTING VIEW

The growing or maintaining or permitting the growing of hedges, corn, or other vegetation so tall as to obstruct the view of any private building, business building, street intersection, or private drive is declared to be a nuisance and is hereby prohibited.

SECTION 3-134: 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 or 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)

SECTION 3-131: DISEASED OR DYING TREES

A. It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead, dying, or diseased trees within the right of way of streets or on private property within the corporate limits of the City. For the purpose of carrying out the provisions of this section, the public works director shall have the authority to enter upon private property to inspect the trees thereon.

B. Notice to abate and remove such nuisances and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the City may have such work done and bill the property owner. If the owner fails to reimburse the City after being properly billed, the City may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed.

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

(Neb. Rev. Stat. §§18-1720, 28-1321)

Article 2 – Dogs

SECTION 3-201: DEFINITIONS

A. "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. Ord. No. 92-1, 1/9/92)

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

C. 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.

D. "Vaccination," "inoculation," 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.

(Neb. Rev. Stat. §§54-606, 71-4401)

SECTION 3-202: RABIES VACCINATION

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

SECTION 3-203: 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 person bringing a dog 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 3-204: LICENSE APPLICATION; ISSUANCE

A. All dog owners shall within 10 days of acquiring a dog shall make application with the City Clerk for a dog license. Such application shall provide the following information:

1. Name and address of the owner.
2. License number of the tag issued to the dog.
3. Breed, age, color, name and sex of dog.
4. The name of the person inoculating said dog for rabies.
5. The date the present rabies inoculation shall expire.
6. Such other information as the City may require from time to time to effectively enforce this ordinance.

B. Upon approval of the application, the owner shall be issued a license for his or her dog(s) upon the payment of a fee set by resolution of the City Council, kept on file at the office of the City Clerk for public inspection. The City shall, in addition to the license tax imposed, collect from the licensee a fee of \$1.25. The clerk shall retain 3¢ from the said fee and remit the balance to the state treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The 3¢ collected shall be credited to the general fund along with the license fees.

B. 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.

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

(Neb. Rev. Stat. §§17-526, 54-603) (Am. Ord. No. 2007-10, 6/26/07)

SECTION 3-205: TAG; LOST TAG; REMOVAL; WRONGFUL LICENSING

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

B. In the event of loss of a tag, a replacement tag and number may be obtained from the ~~clerk~~ Clerk for a fee as set by resolution of the City Council, kept on file at the

office of the City Clerk and available for public inspection.

C. 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.

D. 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.

(Neb. Rev. Stat. §§17-526, 54-605)

SECTION 3-206: 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, the animal control agency, its officers, agents or employees as provided in Section 3-219. "Running at large" shall mean a dog was found off the premises of the owner and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. (Neb. Rev. Stat. §17-526)

SECTION 3-207: DESTRUCTION OF PROPERTY; LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog owned, kept, or harbored by him or her or under his or her charge or control to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Neb. Rev. Stat. §§18-1720, 54-601, 54-602)

SECTION 3-208: 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 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. 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 provided elsewhere in this section.

(Neb. Rev. Stat. §17-526) (Am. Ord. No. 98-19, 8/27/98)

SECTION 3-209: FEMALE IN SEASON

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

SECTION 3-210: 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 3-211: RABIES SUSPECTED; IMPOUNDMENT

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

SECTION 3-212: 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 3-213: DANGEROUS DOGS; DEFINITIONS

A. "Dangerous dog" shall mean any dog that, according to the records of an animal control authority:

1. Has killed a human being;
2. Has inflicted injury on a human being that requires medical treatment;
3. Has killed a domestic animal without provocation; or
4. Has been previously determined to be a potentially dangerous dog by an animal control authority, the owner has received notice from an animal control authority or an animal control officer of such determination, and the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

B. "Potentially dangerous dog" shall mean

1. Any dog that, when unprovoked, (a) inflicts an injury on a human being that does not require medical treatment, (b) injures a domestic animal, or (c) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or
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.

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

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

2. If the dog is a trained dog assisting a law enforcement officer engaged in law enforcement duties.

D. "Domestic animal" shall mean a cat, a dog, or livestock.

E. "Owner" shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

F. "Severe injury" shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures, cosmetic surgery, or one or more broken bones or that creates a potential danger to the life or health of the victim.
(Neb. Rev. Stat. §54-617)

SECTION 3-214: DANGEROUS DOGS; CONFINED; WARNING SIGN

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

SECTION 3-215: DANGEROUS DOGS; RESTRAINED

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

SECTION 3-216: DANGEROUS DOGS; FAILURE TO COMPLY

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

SECTION 3-217: DANGEROUS DOGS; VIOLATION; PRIOR CONVICTION

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

SECTION 3-218: DANGEROUS DOGS; ADDITIONAL REGULATIONS

Nothing in this article shall be construed to restrict or prohibit the City Council from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article. (Neb. Rev. Stat. §54-624)

SECTION 3-219: IMPOUNDMENT

It shall be the duty of the code enforcement officer to capture, secure, and remove in a humane manner to the Humane Society in Lincoln any dog violating any of the provisions of this article. Notice of impoundment of any dog, including any significant marks or identification, shall be posted at the office of the City Clerk as public notification of such impoundment; provided, if the owner of the dog is known, the ~~clerk~~ Clerk may also attempt to personally notify him or her of the impoundment. The owner may reclaim his or her dog by contacting the ~~clerk~~ Clerk for information. (Neb. Rev. Stat. §17-548)

SECTION 3-220: 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 or her by the provisions of this article or to break open or in any manner directly or indirectly aid, counsel, or advise breaking into the animal shelter or any vehicle used for the collecting or conveying of dogs to the shelter. (Neb. Rev. Stat. §28-906)

SECTION 3-221: 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; EXCEPTIONS

A. “Commercial kennel” shall mean an establishment where four 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 resolution of the City Council, kept on file at the office of the City Clerk and available for public inspection during office hours. (Am. Ord. No. 2007-10, 6/26/07)

SECTION 3-303: KENNEL LICENSE REQUIRED; APPLICATION; CONDITIONS

A. 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.

B. 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.

C. 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 3-304: 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: 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

It shall be unlawful for any person to keep or maintain within the corporate limits of the City any horse, except as provided in Section 3-407, or any mule, sheep, cow, goat, swine or other livestock; and the same is hereby 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) (Am. Ord. No. 2015-16, 12/8/15)

SECTION 3-402: 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, CHICKENS; PERMIT REQUIREMENTS; RESTRICTIONS

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

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

C. It shall be unlawful for any person to own, keep, harbor, or have under their care, custody or control any chicken without a valid annual permit issued by the City. The keeping and harboring of chickens shall only be allowed within the R-2 Zoning District. The fee for an annual chicken permit shall be established by the City through the master fee schedule. No permit shall be assignable or transferable either as to permittee, location or chickens.

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

1. No more than four (4) chickens shall be permitted on any lot of one (1) acre or less. No more than six (6) chickens shall be permitted on any lot of more than one acre.
2. The chickens must be housed in a chicken facility and run approved by the

City, such chicken facility and run to be maintained in compliance with all of the City's requirements as a condition of the permit. The requirements for the chicken facility and run include:

- a. The chicken facility and run must be in good repair, capable of being maintained in a clean and sanitary condition, free of vermin, obnoxious smells and substances.
 - b. The chicken facility and run shall not constitute a nuisance or disturb neighboring residents due to noise, odor or threats to public health.
 - c. The chicken facility and run shall prevent chickens from roaming at large.
 - d. The run shall be attached to the coop and constructed to include metal wire fencing anchored to the ground and a fully-enclosed roof or similar enclosure to prevent escape by chickens and entry by predators and general members of the public.
 - e. The chicken facility shall be constructed of durable material and the flooring within the coop shall be of a waterproof hard-surface non-porous material but the chicken run area shall not require hard-surface flooring.
 - f. The chicken facility shall provide not less than three (3) cubic feet per occupant chicken, and the run shall provide not more than five (5) cubic feet per occupant chicken.
 - g. The chicken facility and run shall not be located in any front yard of a property and must be located so as to be at least five (5) feet from the rear property line, six (6) feet from the side property line and at least 20 feet from any neighboring residence.
 - h. The chicken facility and run shall comply with all applicable city building and zoning codes and must be consistent with the requirements of any land use regulation.
3. Offal, manure and waste material shall not be permitted to accumulate nor be confined in any manner that is conducive to the breeding or attraction of flies, mosquitoes or other noxious insects or in any manner that endangers the public health or safety. All permit applicants must provide a statement of the method in which offal, manure and waste material accumulating from the chickens will be sanitarily disposed of at least once every seven days.
 4. All grain, feed and feedstuffs intended for use as food for chickens shall

be kept in tightly fitted containers constructed to keep out vermin and wild animals.

E. The slaughtering or destruction of chickens within the corporate limits of the City shall be prohibited.

F. The City may deny, suspend, or revoke a chicken permit for failure to comply with this section or for violations of applicable zoning, health, or sanitation requirements. The owner may appeal such decision to the City Council by filing written notice within 10 days of the decision. The council shall hear the appeal at a regular or special meeting and may affirm, modify, or reverse the decision.
(Neb. Rev. Stat. §17-547) (Am. Ord. No. 2020-07, 6/9/20)

SECTION 3-404: DANGEROUS ANIMALS; DEFINITION; PROHIBITION

A. "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.

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

SECTION 3-405: ENCLOSURES

All pens, cages, sheds, yards, or any other areas or enclosures 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 3-406: CATS; HOWLING AND OFFENSIVE

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 3-407: EXISTING HORSE STABLES, RIDING ACADEMIES, AND EQUINE FACILITIES

A. Continuation of Existing Facilities. Riding academies, horse boarding facilities, stables, and other equine-related commercial uses that were lawfully existing within the Transitional Agriculture (TA-I) District or were otherwise lawfully established in the City's extraterritorial jurisdiction (ETJ) prior to annexation or acquisition by eminent domain shall be allowed to continue within the corporate limits of the City. Such uses shall not be deemed nonconforming and shall not be required to obtain a conditional use permit unless the zoning district applied after annexation requires a conditional use permit for such activity.

B. Horse Permit Required. Each property operating a riding academy, horse boarding facility, or stable under this section shall obtain an annual horse permit issued by the City. The application shall include:

1. A site plan identifying buildings, corrals, pastures, and areas where horses are kept;
2. A manure and waste management plan adequate to prevent odor, flies, and runoff;
3. Verification of safe and humane conditions for the keeping of horses;
4. A current veterinary health certificate for each horse, if required by the State of Nebraska; and
5. Any additional information reasonably required by the City to ensure compliance.

C. Horse permits are valid for one year, are not transferable, and may be subject to inspection prior to issuance or renewal.

D. Revocation, Denial, and Appeals. The City may deny, suspend, or revoke a horse permit for failure to comply with this section or for violations of applicable zoning, health, or sanitation requirements. The owner may appeal such decision to the City Council by filing written notice within 10 days of the decision. The council shall hear the appeal at a regular or special meeting and may affirm, modify, or reverse the decision.

E. Operations and Standards. Facilities permitted under this section shall comply with the following:

1. All fencing and enclosures shall be secure, maintained, and adequate to prevent escape.
2. Manure shall be removed regularly and stored or disposed of in a manner that minimizes odor and prevents the attraction of insects or rodents.

3. Drainage from corrals, stalls, and manure storage areas shall not discharge onto adjacent properties or public rights-of-way.
4. All horses kept on the property shall be maintained in a safe and sanitary manner.
5. All structures and operations shall comply with applicable zoning, building, health, stormwater, and environmental regulations.

F. Compliance Following Annexation. For any equine-related use brought into the City through annexation or acquisition by eminent domain, the property owner shall apply for a horse permit within 60 days of the effective date of annexation.

G. ETJ Conditional Use Permits. If the equine-related use operated under a conditional use permit issued in the ETJ prior to annexation, the City shall recognize such permit for the purpose of documenting historical operations and conditions. A new conditional use permit shall not be required solely due to annexation when the post-annexation zoning district allows the use as a permitted use. Any proposed expansion, intensification, or modification of the use beyond previously existing operations shall require review and approval under the Hickman Zoning Regulations, including conditional use procedures where applicable.

H. New Equine Facilities Prohibited Unless Allowed by Zoning. No new riding academy, stable, or equine-related commercial facility shall be established within the corporate limits unless expressly permitted by the zoning district in which the property is located.

(Ord. No. 2015-16, 12/8/15)

SECTION 3-408: WILD ANIMALS

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

SECTION 3-409: 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 or 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 3-410: RABIES SUSPECTED; CAPTURE IMPOSSIBLE

The animal control authority as defined in Article 2 herein shall have the authority to kill any animal showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved. (Neb. Rev. Stat. §71-4406)

Article 5 – Nuisances

SECTION 3-501: PUBLIC NUISANCES PROHIBITED

It shall be the duty of every owner, occupant, lessee, mortgagee, or person in control of real estate within the City to keep such real estate free of public nuisances including excessive weeds and vegetation, litter, junk, stagnant water, abandoned or inoperable vehicles, and other nuisance conditions as defined herein. Nothing herein shall prohibit the City from enforcing applicable zoning, parking, screening, outdoor storage, floodplain, site design, or other development regulations in addition to nuisance abatement procedures. (Neb. Rev. Stat. §§17-207, 17-563, 18-1720)

SECTION 3-502: GENERALLY DEFINED

A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- A. Injures or endangers the comfort, repose, health or safety of others,
 - B. Offends decency,
 - C. Is offensive to the senses,
 - D. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the City,
 - E. In any way renders other persons insecure in life or the use of property, or
 - F. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others; or
 - G. Constitutes litter, junk, excessive weeds or vegetation, stagnant water, abandoned or inoperable vehicles, or other conditions declared to be nuisances by Nebraska law or this code.
- (Neb. Rev. Stat. §§17-563, 18-1720)

SECTION 3-503: 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, cesspools, dumps, pits, or like places which are not securely protected from flies or rats or which are foul or malodorous.

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

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

E. 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 shall prevent the temporary retention of waste in receptacles in a manner provided by the City.

F. Tin cans, bottles, glass, cans, ashes, scrap iron, wire, metal articles, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same is kept in covered bins or approved receptacles.

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

H. Any building or structure containing conditions defined as dangerous under Article 6 of this chapter.

I. All places used or maintained:

1. As junkyards or dumping grounds;
2. For the wrecking or dismantling of automobiles, trucks, tractors, machinery, or equipment;
3. For the storing or leaving of worn-out, wrecked, abandoned, or dismantled automobiles, trucks, tractors, machinery, trailers, boats, recreational vehicles or parts thereof; or
4. For the storing or leaving of machinery or equipment used by contractors, builders, or other persons except where expressly permitted by the Zoning Ordinance.

J. Stagnant water permitted or maintained on any lot or piece of ground; water pollution as provided in Ch. 7, Art. 2, Section 7-214.

K. Air pollution, including discharge into the open air of dust, fumes, gases, mists, odors, smoke, or any combination thereof. Standards established by the State

shall be presumptive evidence as to when the air is deemed polluted.

L. Any machine, vehicle, trailer, boat, recreational vehicle, equipment, or parts thereof which have lost their identity, character, utility, or serviceability through deterioration, dismantling, abandonment, inoperability, or the ravages of time and which constitute litter, waste, wreckage, or junk.

M. Any motor vehicle, trailer, boat, recreational vehicle, or similar equipment which is nonoperating, wrecked, junked, partially dismantled, abandoned, or unlicensed where licensing is required, except as otherwise permitted by this code or the Zoning Ordinance.

1. A maximum of two inoperable vehicles may be stored upon residential property provided:

- a. The vehicles are located within a side yard, rear yard, or rear yard open space;
- b. The vehicles are not located within a front yard or street-side yard setback; and
- c. The vehicles are fully screened from adjacent residential property, public streets, and public trails.

2. This subsection shall not apply to:

- a. A vehicle stored within a completely enclosed building;
- b. A vehicle located upon the premises of a lawful business enterprise when necessary to the lawful operation of such business enterprise; or
- c. A vehicle located in a lawful storage place or depository.

N. Parking or storage of vehicles upon grass, lawn areas, or unimproved dirt surfaces except as otherwise permitted by this code or the Zoning Ordinance. Existing gravel or compacted rock parking areas lawfully existing prior to adoption of this ordinance may continue as legal nonconforming parking surfaces provided they are maintained to prevent mud, rutting, weeds, erosion, or excessive dust.

O. Stones, pallets, construction materials, wood or tree limbs, or similar materials not maintained in neat rows within an area not exceeding 10 feet by 16 feet. Such materials shall not be permitted within required front yard or streetside yard setbacks.

P. Debris from burned, damaged, or partially demolished buildings.

Q. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens, or other places where animals, fowl, grain, tankage, vegetable matter, or animal matter are confined, stored, or processed in such a manner that foul or noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the City or in such

a manner as to be injurious to public health.

R. Maintenance of weeds, grasses or worthless vegetation of 10 inches or more in height. Weeds shall include, but not be limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

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

SECTION 3-504: NOTICE PROCEDURE; ABATEMENT

A. Whenever the City Clerk, law enforcement officer, code enforcement officer, zoning administrator, or authorized representative of the City determines that a nuisance exists upon any property, including stagnant water, excessive weeds or vegetation, litter, junk, or other nuisance conditions authorized for abatement under Neb. Rev. Stat. §17-563 or the City's nuisance ordinance, the following abatement procedure shall apply:

1. The City Clerk, law enforcement officer or code enforcement officer shall document the nuisance by photographing the same and shall notify the owner or occupant of the property of such violation by first class mail with the envelope conspicuously identified as time-sensitive. If the owner or occupant fails to accept such certified mail, the same shall be delivered to the owner or occupant by the Lancaster County Sheriff's Department.
2. Such notice shall contain:
 - a. A description of the nuisance condition;
 - b. The location of the nuisance condition;
 - c. A statement of corrective action required;
 - d. The time within which abatement shall occur;
 - e. Notice of the right to request an appeal hearing; and
 - f. Notice that the City may abate the nuisance and assess costs against the property if compliance does not occur.
3. Within ten days after mailing or delivery by the Sheriff's Office, the owner or occupant may request a hearing to appeal the nuisance determination by filing a written appeal with the office of the City Clerk.
4. The Mayor may preside at such hearing as the hearing officer or appoint a disinterested person as hearing officer to conduct the appeal hearing. At such hearing, the formal rules of evidence will not apply. The owner or

occupant of the property may be represented by an attorney at such hearing. The City Clerk or a recording clerk appointed by him or her shall record minutes of such hearing and mark and label all exhibits presented.

5. The hearing on the appeal shall be held within 14 days after filing of the appeal. The hearing officer shall render a decision on the appeal within five business days after the conclusion of the hearing.
6. If the hearing officer renders a decision against the owner or occupant, said owner or occupant shall have 30 days thereafter to file an appeal with the District Court of Lancaster County.
7. If the appeal fails and no appeal is taken to the District Court, the City may have such work done and the costs and expenses thereof shall be paid by the owner.

B. If the costs and expenses of nuisance abatement remain unpaid for two months after the work is completed, the City may:

1. Levy and assess the costs and expenses against the property in the same manner as other special assessments; or
2. Recover such costs and expenses through civil action.

(Neb. Rev. Stat. §§17-563, 18-1720)

SECTION 3-505: JURISDICTION

The Mayor, law enforcement officer, code enforcement officer, City Clerk, and other authorized representatives of the City are directed to enforce this code against all nuisances. The jurisdiction and territorial application of this article shall extend to all property located within the corporate limits and the extraterritorial zoning jurisdiction of the City. Nothing herein shall be construed to prohibit lawful agricultural operations or uses otherwise permitted under the City's adopted zoning regulations. Nothing herein shall prohibit enforcement of applicable nuisance, zoning, parking, screening, outdoor storage, floodplain, or other development regulations authorized by Nebraska law. (Neb. Rev. Stat. §§17-563, 18-1720)

Article 6 – Dangerous Buildings

SECTION 3-601: DETERMINATION; DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

(Neb. Rev. Stat. §18-1720)

SECTION 3-602: BUILDING INSPECTOR

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

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 3-603: STANDARDS

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

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

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

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

repaired so that it will no longer exist in violation of the terms or provisions of this article, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of an ordinance of this city, or statute of the state, it shall be demolished.

(Neb. Rev. Stat. §§17-136, 15-905, 18-2107)

SECTION 3-604: 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. (Neb. Rev. Stat. §28-1321)

SECTION 3-605: NUISANCE; PROCEDURE

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

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

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

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

D. File a copy of such determination or resolution in the office of the register of deeds of the county to be recorded. No fee shall be charged for such recording or for the release of such recording.

(Neb. Rev. Stat. §18-1722.01)

SECTION 3-606: FAILURE TO COMPLY

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

to the City Council, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. In addition, the City may bring a civil action against the offending party to recover the cost of the work. (Neb. Rev. Stat. §18-1722)

SECTION 3-607: DISPUTES

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

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

SECTION 3-608: 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 3-609: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

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

SECTION 3-610: IMMEDIATE HAZARD

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

Article 7 – Bureau of Violations

SECTION 3-701: ADMINISTRATION; FINES

A. The Bureau of Violations shall be administered by and through the office of the City Clerk or designee.

B. Whenever a citation has been issued by the ~~code-enforcement-officer~~ Code Enforcement Officer or designated officer of the County Sheriff's Department for a nonmoving traffic offense or violation of the nuisance ordinances of the City, a copy of such citation shall be delivered to the City Clerk, who shall promptly record such citation and collect all fines imposed by such ordinance. The City shall establish and maintain a fine schedule for violation of such nonmoving traffic or ordinance violation offenses and shall notify the offending party of the opportunity to make payment of such fines to the City in lieu of appearing in court. The offending party shall be required to sign a "Waiver of Court Appearance and Plea of Guilty" to the charge.

C. In the event that a party violating the parking regulations or nuisance regulations of the City fails to appear before the Bureau of Violations to make payment of the fine and penalties, the matter shall be referred to the city attorney for proceedings against the violating party in the county court.

D. The City Clerk or designee shall maintain appropriate and accurate records of all fines paid. All fines collected shall be appropriated to the general fund. Should any such fines not be paid within 30 days of issuance of the citation, the City Clerk shall refer such citation to the city attorney for prosecution of the charges.

Article 8 – Penal Provisions

SECTION 3-801: 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. Ord. No. 2010-08, 4/27/10)

SECTION 3-802: 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)