

CHAPTER 3 – MISDEMEANORS

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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, the county, or the city 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 or to refuse or neglect to assist any such officer when called upon by him or her in making any arrest or conveying a prisoner to jail. (Neb. Rev. Stat. §§28-903, 28-904)

SECTION 3-103: IMPERSONATING OFFICER

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

SECTION 3-104: CRIMINAL IMPERSONATION

A. A person commits the crime of criminal impersonation if he or she:

1. Pretends to be a representative of some person or organization and does an act in his or her fictitious capacity with the intent to gain a pecuniary benefit for himself, herself, or another, and to deceive or harm another;
2. Carries on any profession, business, or any other occupation without a license, certificate, or other authorization required by law; or
3. Knowingly provides false personal identifying information or a false personal identification document to an employer for the purpose of obtaining employment.

B. Criminal impersonation as described in subsection (A)(1) and (2) above is a Class I misdemeanor if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500.00 or more but less than \$1,500.00.

C. Criminal impersonation as described in subsection (A)(1) and (2) above is a Class II misdemeanor if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500.00. Any second conviction under this subsection is a Class I misdemeanor.

D. Criminal impersonation as described in subsection (A)(3) above is a Class II misdemeanor. Any second or subsequent conviction under this section is a Class I misdemeanor.

E. A person found guilty of violating this section may, in addition to the penalties set forth in subsections (B), (C), and (D) herein, be ordered to make restitution pursuant to Neb. Rev. Stat. §§29-2280 to 29-2289.
(Neb. Rev. Stat. §28-638) (Ord. No. 1072, 8/11/05)

SECTION 3-105: 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) (Am. Ord. Nos. 675, 10/14/82; 976, 9/10/98)

SECTION 3-106: 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 3-107: CONCEALED WEAPONS

Except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his or her person such as a revolver, pistol, Bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon. This section shall not apply to (A) a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon which the offender is carrying is a handgun as defined in Neb. Rev. Stat. §69-2429; (B) a law enforcement officer in the performance of his or her duties within the city; or (C) shooting galleries and other private shooting ranges within buildings or other structures approved by the mayor and City Council. (Neb. Rev. Stat. §§17-556, 28-1202)

SECTION 3-108: DISCHARGE OF FIREARMS

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. A violation of this section shall be punishable by a fine of \$500.00. (Neb. Rev. Stat. §17-556)

SECTION 3-109: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENT

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle, or other like instrument capable of launching a dangerous projectile therefrom at any time or under any circumstances within the city or within a one-half mile radius of the city where the projectile from the firearm or instrument 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 or instrument has written permission from the City Council. A violation of this section shall be punishable by a fine of \$250.00. (Neb. Rev. Stat. §17-207)

SECTION 3-110: STALKING

A. Any person who willfully harasses another person or a family or household

member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

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

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

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

SECTION 3-111: 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;
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 3-112: 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;
- C. A lewd fondling or caressing of the body of any other person of the same or opposite sex; or
- D. An intentional exposure of his or her genitals, pubic area, or buttocks while employed in providing any service, product, or entertainment in any business or commercial establishment.
(Neb. Rev. Stat. §28-806)

SECTION 3-113: URINATING OR DEFECATING IN PUBLIC

It shall be unlawful for any person to urinate or defecate on a public street, alley, or any other property whether public or private which is open or visible to the public. This section shall not apply to urinating or defecating in any restroom facility in a manner for which that facility was designed. A violation of this section shall be punishable by a fine of \$100.00.

SECTION 3-114: PUBLIC NUILITY; AIDING AND ABETTING

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 3-115: SEXUAL 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 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 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. §§29-4016, 29-4017)

SECTION 3-116: WINDOW PEEPING

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

SECTION 3-117: 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 less than \$5,000.00. (Neb. Rev. Stat. §28-519) (Ord. No. 1069, 8/11/05)

SECTION 3-118: THEFT

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

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

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

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

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

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

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

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

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

(Neb. Rev. Stat. §§28-511 through 28-515, 28-517, 28-518) (Ord. No. 1070, 8/11/05)

SECTION 3-119: THEFT OF TELECOMMUNICATIONS SERVICE

A. It is an offense for any person to:

1. Knowingly make or possess any device designed to or commonly used to obtain telecommunications service fraudulently from a licensed cable television franchisee with the intent to use such device in the commission of an offense described in subsection (1) of Neb. Rev. Stat. §28-515;
2. Knowingly tamper with, interfere with, or connect to any cables, wires, converters, or other devices used for the distribution of telecommunications service by any mechanical, electrical, acoustical, or other means without authority from the operator of the service with the intent of obtaining telecommunications service fraudulently; or
3. Sell, give, transfer, or offer or advertise for sale a device which such person knows or should know is intended to be used for the purpose of obtaining telecommunications services fraudulently.

B. For purposes of this section:

1. "Telecommunications service" includes, but is not limited to, telephone service and cable television service; and
2. "Device" includes, but is not limited to, instrument, apparatus, equipment, and plans or instructions for making or assembling the instrument, apparatus, or equipment.

(Neb. Rev. Stat. §28-515.01)

SECTION 3-120: THREATS; ASSAULT IN THE THIRD DEGREE

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

SECTION 3-121: DISORDERLY ASSEMBLIES

A. It shall be unlawful for two or more persons to assemble and engage in conduct which threatens the public peace or safety through fighting or violent or threatening behavior, loud or profane language, unreasonable noise, obstruction of vehicular or pedestrian traffic or by littering or breakage.

B. Any disorderly assembly of persons is prohibited and the Police Department or any law enforcement agency and officer shall have the authority to disperse those persons and to require them to remove themselves from the place of assembly. Any person participating in disorderly assembly who fails or refuses to disperse or vacate the location after having been instructed to do so by a law enforcement officer shall be guilty of disorderly assembly in violation hereof and the individual found guilty as such shall be subject to the penalties provided for this chapter.

(Neb. Rev. Stat. §17-556) (Am. Ord. No. 1208, 8/12/21)

SECTION 3-122: AGGRESSIVE PANHANDLING

It shall be unlawful for any person(s) to engage in an act of panhandling for the solicitation of money or items of value from another person in an aggressive manner.

A. "Panhandling" is defined as the solicitation of money or other items of value which shall include but shall not be limited to verbal or nonverbal words or acts or other actions or bodily gestures conducted for the purpose of obtaining, directly or indirectly, a donation from another person.

B. A person's manner is considered to be aggressive if he or she is engaged in any of the following:

1. Panhandling a person at an automated teller machine or other cash dispensing location in which the persons involved are 15 feet or closer to each other;

2. There are repeated panhandling requests after a person has refused, ignored or declined the request from the panhandler;
3. There are repeated panhandling requests when the person being solicited is stationary, in a line, or stopped in traffic;
4. When the person being solicited is touched without consent prior to, during, or after the panhandling request;
5. Any panhandling on private property without permission from the owner;
6. Any panhandling while blocking the path of the person being solicited or blocking the entrance to any building or vehicle; or
7. Walking behind, alongside, or ahead of the person solicited after the panhandling solicitation has been refused, ignored or declined.

(Ord. No. 1207, 8/12/21)

SECTION 3-123: DISTURBING AN ASSEMBLY; DISTURBING THE PEACE

A. 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. A violation of this subsection shall be punishable by a fine of \$250.00.

B. 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)

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SECTION 3-124: LOITERING

It shall be unlawful for any person to loiter on the streets, in the park, on the sidewalk, or on any other public ways or property at unreasonable hours. Such person who shall be unable to give a good and satisfactory reason why he or she should be in such place(s) at such hours shall be deemed to be guilty of loitering. A violation of this section shall be punishable by a fine of \$250.00. (Neb. Rev. Stat. §17-556)

SECTION 3-125: RIOTING

It shall be unlawful for any person or persons to congregate together for the purpose of breaching the peace by rioting or to induce others to riot through words, actions, or conduct. Whosoever shall congregate with others for the purpose of rioting or inducing

others to riot shall be deemed to be guilty of a misdemeanor which shall be punishable by a fine of \$250.00. (Neb. Rev. Stat. §17-556)

SECTION 3-126: EXCESSIVE NOISE

It is hereby determined to be unlawful to operate industrial equipment, heavy machinery, jack hammers, and other industrial equipment emitting loud noise or to race automobile engines within the city between the hours of 8:00 p.m. and 7:00 a.m. in such a manner as to disturb the comfort, repose, peace, and quiet of city residents unless such activity has been approved in advance by the City Council. A violation of this section shall be punishable by a fine of \$150.00.

SECTION 3-127: 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. A violation of this section shall be punishable by a fine of \$150.00.

SECTION 3-128: MISREPRESENTATION BY MINOR; ALCOHOL

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

SECTION 3-129: MINOR IN POSSESSION; ALCOHOL

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

SECTION 3-130: MINORS; VENDORS; TOBACCO AND NICOTINE PRODUCTS

A. Any minor under the age of 18 years who shall smoke cigarettes or cigars,

use vapor products or alternative nicotine products, or use tobacco in any form whatever shall be guilty of an offense. Any minor charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, vapor products, alternative nicotine products, or tobacco.

B. Any person who shall sell, give, or furnish in any way any tobacco in any form whatever or any cigarettes or cigarette paper, vapor products, or alternative nicotine products to any minor under 18 years of age is guilty of an offense.

(Neb. Rev. Stat. §§28-1418, 28-1419)

SECTION 3-131: MISREPRESENTATION BY MINOR; TOBACCO AND NICOTINE PRODUCTS

Any person under the age of 18 years who shall obtain cigars, tobacco, cigarettes, or cigarette material, vapor products, or alternative nicotine products from a licensee by representing that he or she is of the age of 18 years or over is guilty of an offense. (Neb. Rev. Stat. §28-1427)

SECTION 3-132: CURFEW

A. Juvenile curfew hours shall be for the period from 11:00 p.m. to 5:00 a.m.

B. For the purposes of this article, a juvenile shall be considered any person 17 years of age or under.

C. It shall be unlawful for any juvenile during curfew hours:

1. To loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, public places, public buildings, public places of amusement and entertainment, vacant lots or other unsupervised places.
2. To ride in or upon, drive, or otherwise operate, any automobile, bicycle or other vehicle, in, upon, over, or through the streets, alleys, or other public places of the city during curfew hours.

D. It shall be unlawful for the parent, guardian, or other adult person having the care and custody of a juvenile to allow or permit such juvenile to do or engage in any of the activities or acts prohibited by this section during curfew hours.

E. It shall be unlawful for any person, firm or corporation operating a place of business or amusement to allow or permit any juvenile to be in or upon any place of business or amusement operated by them within the curfew hours except as permitted in subsection (G) herein.

F. Any juvenile engaged in any prohibited activity during curfew hours may be

taken into custody by any law enforcement officer. The officer shall first make reasonable attempts to contact the parent, guardian or legal custodian of such juvenile and permit such parent, guardian or legal custodian to receive custody of the juvenile from the officer. If a parent, guardian or legal custodian of the juvenile cannot be located by such officer after making reasonable attempts to locate such person; or if the parent, guardian or legal custodian shall refuse to accept the custody and responsibility for such juvenile; or if such parent, guardian or legal custodian shall inform the officer that the juvenile cannot be controlled by the parent, guardian or legal custodian, then the juvenile shall remain in the custody of the officer to be processed, cited and/or charged or confined, all pursuant to Nebraska juvenile court law and the procedures thereunder.

G. It is a defense to prosecution that the minor was:

1. Accompanied by a parent, guardian, or other adult person having the legal care, custody, or control of such minor;
2. On an errand, at the direction of the minor's parent, guardian, or other adult person having the legal care, custody, or control of such minor, and was using a direct route;
3. In a motor vehicle involved in interstate travel;
4. Engaged in an employment activity, including but not limited to newspaper delivery, and was using a direct route;
5. Involved in an emergency;
6. On the sidewalk abutting the minor's residence;
7. Attending an official school or religious activity or returning home by a direct route from an official school or religious activity;
8. Exercising first amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
9. Married, had been married, or had the disabilities of a minority removed in accordance with the laws of the State of Nebraska.

H. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalty as provided in Section 3-701. In addition thereto, any juvenile violating the provisions of this section may also be subject to the provisions of the juvenile court law of the State of Nebraska and the procedures thereunder.

(Neb. Rev. Stat. §17-505) (Am. Ord. No. 1158, 5/12/16)

SECTION 3-133: 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.

D. A violation of this section shall be punishable by a fine of \$100.00.
(Neb. Rev. Stat. §§17-123.01, 28-523)

SECTION 3-134: INJURY OR REMOVAL OF PUBLIC AND PRIVATE PROPERTY

No person in the city shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or moveable or personal property belonging to the city or to any person in the city.

SECTION 3-135: POSTING NOTICES

No person in the city shall fasten any poster or other advertising device in any way upon public or private property in the city unless legally authorized to do so. A violation of this section shall be punishable by a fine of \$100.00.

SECTION 3-136: 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. A violation of this section shall be punishable by a fine of \$100.00.

SECTION 3-137: 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 and locks and make the same reasonably safe. (Neb. Rev. Stat. §18-1720)

SECTION 3-138: OBSTRUCTING WATER FLOW

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe or hydrant. A violation of this section shall be punishable by a fine of \$100.00.

SECTION 3-139: 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 3-140: 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 3-141: 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.

SECTION 3-142: 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. A violation of this section may be abated as provided for in Section 3-504 or may be punishable by a fine of \$100.00.

Article 2 – Dogs

SECTION 3-201: DEFINITIONS

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

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

“Owner” shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog; every person who shall harbor such a dog about his or her premises for the space of ten days shall be held to be the owner.

(Neb. Rev. Stat. §§54-606, 71-4401) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17; 1212, 12/9/21)

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 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) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-203: RABIES CERTIFICATE; LICENSING; FEE

A. Any person who shall own, keep, or harbor a dog over the age of four months within the city shall within 30 days after acquisition of the said dog acquire a license for each animal annually by or before January 1 each year. Application shall be made upon a printed form provided by the city, upon which the owner shall state his or her name and address and the name, breed, color, and sex of each dog owned and kept by him or her. A certificate stating that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. If the dog has been spayed or neutered, a statement signed by a veterinarian verifying the spaying or neutering must be presented.

B. Upon payment of the license fee, as set by resolution of the City Council, the city clerk or other employee designated by the city manager shall issue to the dog owner a license certificate and a metallic tag for each animal so licensed. The city shall,

in addition to the license tax imposed, collect from the licensee a fee of \$1.25. The city 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. Said remittance shall be made at least annually at the conclusion of the city's fiscal year, except that in the event the city has collected less than \$50.00 during the fiscal year, the city clerk may remit the fees when the cumulative amount of fees collected reaches \$50.00. The amounts collected shall be immediately credited to the general fund along with the license fees.

C. The said dog tax shall be delinquent from and after January 10; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to January 1 shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within 10 days thereafter. It shall be the duty of the city clerk or other employee designated by the city manager to issue tags of a suitable design that are different in appearance each year.

D. The metallic tag shall be properly attached to the collar or harness of every dog so licensed and shall entitle the owner to keep or harbor the said animal until December 31 of the current year. Said licenses shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog.

E. Every service animal shall be licensed but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of a license tax as prescribed herein. (Neb. Rev. Stat. §§17-526, 54-603) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17; 1212, 12/9/21)

SECTION 3-204: LOST TAG

In the event that a licensing tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the city clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee for each duplicate tag so issued. Such fee shall be as set by resolution of the City Council and kept on file in the office of the city clerk. (Neb. Rev. Stat. §§17-526, 54-603) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-205: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag, or other city identification other than that issued by the city clerk or other employee designated by the city manager. (Neb. Rev. Stat. §17-526) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-206: REMOVAL OF COLLAR OR HARNESS, LICENSE TAGS

It shall be unlawful for any person to remove or cause to be removed the collar, harness, or license tag from any licensed dog without the consent of the owner, keeper, or possessor thereof. (Neb. Rev. Stat. §17-526) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-207: RUNNING AT LARGE; LICENSE REQUIRED

It shall be unlawful for the owner of any dog to allow it to run at large at any time within the corporate limits of the city. It shall be the duty of the animal control authority to cause any dog found to be running at large within the city to be taken up and impounded as provided in Section 3-227. "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 by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. A violation of this section shall be punishable by a fine of \$100.00. (Neb. Rev. Stat. §17-526) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-208: DAMAGE; 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) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-209: BARKING AND OFFENSIVE; COMPLAINT

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood or person or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the city. Upon the written complaint of two or more affected persons from different households, filed within any 30-day period with the city manager, that any dog owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section, the city manager or animal control officer shall investigate the complaint and, if in his or her opinion the situation warrants, shall notify the owner to silence and restrain such dog. The provisions of this section shall not be construed to apply to the city animal shelter. (Neb. Rev. Stat. §17-526) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-210: FIGHTING

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting or by any gesture or word to encourage the same to fight. Any person convicted of violating this section shall be fined in the amount of \$100.00 (Neb. Rev. Stat. §17-526) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-211: RABIES PROCLAMATION

It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid dogs or cats is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog 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 past. The dog may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning, keeping, or harboring any dog to confine it as herein provided. (Neb. Rev. Stat. §17-526) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-212: 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 a licensed veterinarian or 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) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-213: DANGEROUS DOGS; DEFINITIONS

For purposes of Sections 3-213 through 3-224 regulating dangerous dogs, referred to herein as "these regulations":

"Animal control officer" shall mean any person employed or appointed by the city who is authorized by the city manager to investigate and enforce violations relating to animal control or cruelty under the provisions of this article.

"Dangerous dog" shall mean any dog that, because of its aggressive nature, training, or characteristic behavior, presents a risk of serious physical harm or death to human beings, or would constitute a danger to human life, physical well-being, or property if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties. A dog shall not be defined as dangerous if any threat or any damage was sustained by a person committing a willful trespass or any other tort upon the property owner of the dog at the time; nor shall a dog be considered dangerous if the dog was provoked or abused by the party complaining. "Dangerous dog" includes any dog that, according to the records of either the city, animal shelter, or any law enforcement agency:

- A. Has aggressively bitten, attacked, endangered, or inflicted severe injury on a human being on public or private property, or, when unprovoked, has chased or approached a person upon the street, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; provided, such actions are attested to in a sworn statement by one or more persons and dutifully investigated by an animal control officer;

- B. Has severely injured or killed a domestic animal while off the owner's property;
or
- C. Has been used primarily or in part for the purpose of dogfighting or is a dog trained for dogfighting.

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

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

"Severe injury" shall mean any physical injury that results in lacerations requiring sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim.

(Ref. Neb. Rev. Stat. §54-617) (Am. Ord. Nos. 1171, 11/9/17; 1212, 12/9/21)

SECTION 3-214: DANGEROUS DOGS; PROCEDURE FOR DECLARING A DOG DANGEROUS

A. An animal control officer or any person of 18 years of age or older may request that a dog be classified as dangerous as defined in Section 3-213 by submitting a written complaint on a form approved by the animal control officer. Upon receipt of such a complaint, the animal control officer shall notify the owner of the dog that a complaint has been filed and that an investigation into the allegation as set forth in the complaint will be conducted.

B. At the conclusion of an investigation, the animal control officer may:

1. Determine that the dog is not dangerous and, if the dog has been impounded, waive any impoundment fees incurred and release the dog to its owner;
2. Determine that the dog is dangerous and order the owner to comply with the requirement for keeping dangerous dogs set forth in Section 3-218 herein. The animal control officer also shall notify the city manager and the police chief of the designation of any dog as a dangerous dog and specify any particular requirements or conditions placed upon the dog owner; or
3. Determine that the dog is dangerous and should be humanely destroyed. In order for this decision to be made, the dog must have been determined to cause a fatal injury to another domestic animal or inflicted severe injury on a human while not on the owner's property. The animal control officer also shall notify the city manager and the police chief of the designation of any dog as a dangerous dog.

(Am. Ord. No. 1171, 11/9/17)

SECTION 3-215: DANGEROUS DOGS; NOTIFICATION OF DANGEROUS DOG DECLARATION

A. Within five business days after declaring a dog dangerous, the city shall notify the owner by certified mail of the dog's designation as a dangerous dog and if the dog has been determined to be destroyed humanely or the conditions for keeping the dog, as set forth in Section 3-218 herein. The animal control officer also shall notify the city manager and the police chief of the designation of any dog as a dangerous dog and shall specify if the dog has been determined to be destroyed humanely or if there are any particular requirements or conditions placed upon the dog owner.

B. The notice shall inform the dog owner that he or she may request, in writing, a hearing to contest the animal control officer's finding and designation within five business days after delivery of the dangerous dog declaration notice.

C. If the animal control officer cannot with due diligence locate the owner of a dog that has been seized pursuant to these regulations, the animal control officer shall cause the dog to be impounded for no fewer than five business days. If after five business days the owner fails to claim the dog, the animal control officer may cause the dog to be humanely destroyed.

(Am. Ord. No. 1171, 11/9/17)

SECTION 3-216: DANGEROUS DOGS; HEARING ON DECLARATION

A. The city manager shall hold a hearing within 15 business days after receiving the dog owner's written request for such a hearing. The city manager shall provide notice of the date, time, and location of the hearing to the dog owner and complainant by certified mail.

B. At a hearing, all interested persons shall be given the opportunity to present evidence on the issue of the dog's dangerousness. However, the city manager may set and enforce reasonable limits on the amount of time each interested person has to present. Criteria to be considered in a hearing required by this section shall be included but not limited to the following:

1. Provocation;
2. Severity of attack or injury to a person or a domestic animal;
3. Previous aggressive history of the dog;
4. Observable behavior of the dog;
5. Site and circumstance of the incident; and
6. Statement from interested persons.

C. A determination at a hearing that the dog is in fact a dangerous dog as defined in Section 3-213 shall subject the dog and its owner to the provisions of these regulations.

D. Failure of the dog owner to request a hearing shall result in the dog finally

being declared a dangerous dog and shall subject the dog and its owner to the provisions of this article.

E. The dog owner shall be responsible for payment of all boarding costs and other fees as may be required for the city to humanely and safely keep the animal during any legal proceeding, unless the city manager determines that the dog is not dangerous.

(Am. Ord. No. 1171, 11/9/17)

SECTION 3-217: DANGEROUS DOGS; APPEAL FROM DECLARATION

If the city manager determines that a dog is dangerous at the conclusion of a hearing conducted under Section 3-221, that decision shall be final unless the dog owner applies to a court of competent jurisdiction for any remedies that may be available within ten days after receiving notification that the dog has been finally declared dangerous. If an appeal is timely filed, the city manager shall suspend the destruction order pending the final determination of the court. The appeal must be a trial *de novo* and shall be a civil proceeding for the purpose of affirming or reversing the city manager's determination of dangerousness. (Am. Ord. No. 1171, 11/9/17)

SECTION 3-218: DANGEROUS DOGS; KEEPING OF

The keeping of a dangerous dog as defined in Section 3-213 shall be subject to the following requirements:

A. *Leash.* No person having charge, custody, control or possession of a dangerous dog shall allow the dog to exit its kennel, pen, or other proper enclosure unless such dog is securely attached to a leash not more than 4 feet in length. No such person shall permit a dangerous dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person capable of controlling the dog is in physical control of the leash.

B. *Muzzle.* It shall be unlawful for any owner or keeper of a dangerous dog to allow the dog to be outside of its proper enclosure unless it is necessary for the dog to receive veterinary care or exercise. In such cases, the dog shall wear a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

C. *Confinement.* Except when leashed and muzzled as provided in this section, a dangerous dog shall be securely confined indoors or confined in a locked pen or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, light, and ventilation. A privacy fence enclosure does not meet the requirements of confinement for a dangerous dog. The enclosed structure shall be kept in a clean and sanitary condition and shall meet the following requirements:

1. The structure must have secure sides and a secure top, or all sides must be at least 8 feet high;
2. The structure must have a bottom permanently attached to the sides or the sides must be embedded not less than 1 foot into the ground; and
3. The structure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.

D. *Indoor Confinement.* No dangerous dog shall be kept on a porch, patio, or any part of a house structure that would allow the dog to exit such building on its own volition.

E. *Signs.* All owners, keepers or harborers of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public, using the words "Beware of Dog".

F. *Liability Insurance and Surety Bond.* The owner of a dangerous dog shall present to the animal control officer proof that he or she has procured liability insurance or a surety bond in the amount of not less than \$100,000.00 covering any damages or injury that may be caused by such dangerous dog. The policy shall contain a provision requiring that the city be notified immediately by the insurance company issuing the policy in the event that the insurance policy is cancelled, terminated, or expires. The liability insurance or surety bond shall be obtained prior to the issuing of a permit to keep a dangerous dog. The dog owner shall sign a statement attesting that he or she shall maintain and not voluntarily cancel the liability insurance policy during the 12-month period for which a permit is sought, unless the owner ceases to own or keep the dog prior to the expiration date of the permit period.

G. *Spay and Neuter.* All dangerous dogs must either be spayed or neutered prior to the issuing of a permit to keep a dangerous dog.

H. *Reporting Requirements.* Every owner of a registered dangerous dog shall, within ten days of any of the following incidents, report in writing to the city as follows:

1. Removal of dog from the city;
2. Death of said dog;
3. Birth of offspring;
4. New address if owner moves within the city.

I. *Offspring of Dangerous Dogs.* All offspring born of dangerous dogs registered with the animal control officer must be transferred to an owner whose property is outside the city within eight weeks of birth or become subject to humane destruction. If offspring are produced from a dangerous dog, then the dangerous dog must be evaluated by a licensed veterinarian to determine what is necessary to end the dog's ability to procreate.

J. *Notification of Escape.* The owner or keeper of a dangerous dog shall notify the animal control officer and/or the Gordon Police Department immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.

K. *Failure to Comply.* It shall be unlawful and a misdemeanor for any owner of a dangerous dog registered with the animal control officer to fail to comply with the requirements and conditions set forth in this section. Any dog found to be in violation of this section shall be subject to seizure and impoundment according to Section 3-221. (Am. Ord. No. 1171, 11/9/17)

SECTION 3-219: DANGEROUS DOGS; PERMIT AND TAG REQUIREMENT

A. The owner of a dangerous dog shall, within three business days after the classification of the dog as dangerous or upon acquisition of such a dog, obtain an annual permit from the animal control officer to harbor the dog. The fee for such a permit shall be as set by resolution of the City Council and kept on file at the office of the city clerk. Such fee shall include the tag and inspection fee for inspection of the structure for confinement of the animal.

B. Proof of current rabies vaccination shall be presented in order to obtain the permit.

C. At the time the permit is issued, a red circular tag shall be issued to the owner of the dangerous dog. Such tag shall be worn at all times by the dog to clearly and easily identify it as a dangerous dog.

D. A picture of the dog is required to be submitted to the animal control officer prior to the issuance of a permit.

E. The permit for maintaining a dangerous dog shall be presented to an animal control officer upon demand. (Am. Ord. No. 1171, 11/9/17)

SECTION 3-220: DANGEROUS DOGS; NOTIFICATION OF INTENT TO IMPOUND

A. When the animal control officer or his or her designee intends to impound a dog declared to be dangerous for violation of Section 3-218 (Keeping of Dangerous Dogs), he or she shall notify the owner or custodian of the dog, by certified mail, of the intended impoundment at least ten business days prior to the intended impoundment, except when the violation makes immediate impoundment necessary for the protection of public health and safety. In such case, the owner or custodian of the dog shall be notified by certified mail within five business days following the immediate impoundment of the dangerous dog. If the dangerous dog poses threat of severe injury to the animal control officer or other persons or domestic animals in the course of impounding it, the dog may be destroyed immediately. In addition, failure to comply with the requirements and conditions set forth in these regulations shall result in the revocation of the

dog's license and the permit providing for the keeping of such animal.

B. The notice of impoundment shall inform the owner or custodian of the dog that he or she may request in writing, within five business days after receiving notice, a hearing to contest the impoundment and finding of violation.

C. If the owner or custodian requests a hearing, no impoundment shall take place until the conclusion of the hearing, except when the violation makes immediate impoundment necessary for the protection of public health and safety.

(Am. Ord. No. 1171, 11/9/17)

SECTION 3-221: DANGEROUS DOGS; IMPOUNDMENT HEARING

A. The city manager shall hold a hearing within 15 business days after receiving the dog owner's written request for such a hearing. The city manager shall provide notice of the date, time, and location of the hearing to the dog owner and complainant by certified mail.

B. If after a hearing on impoundment the city manager finds no violation of Section 3-218 (Keeping of Dangerous Dogs) or that the dog has not bitten a human or domestic animal, the dog shall be returned to its owner or custodian, if already impounded, or shall not be impounded as intended.

C. Incident to the findings and conclusions made at the impoundment hearing, the city manager may impose reasonable restrictions and conditions for maintenance of the dog to ensure the health and safety of the public and the animal. Such conditions may include but shall not be limited to:

1. Posting of bond or other proof of financial ability to respond to damages;
2. Specific requirements as to size, construction and design of a kennel in which to house the dog;
3. Requirements as to type and method of restraint and/or muzzling of the dog;
4. Photo identification or permanent marking of the dog for purposes of identification; and
5. Payment of reasonable fees to recover the costs incurred by the animal control officer in ensuring compliance with these regulations.

D. The dog owner shall be responsible for payment of all boarding costs and other fees as may be required for the city to humanely and safely keep the animal during any legal proceeding, unless the city manager determines there was no violation.

(Am. Ord. No. 1171, 11/9/17)

SECTION 3-222: DANGEROUS DOGS; DESTRUCTION

A. The animal control officer may order the immediate destruction of any dog that is not adequately restrained or confined on the dog owner's property and that the animal control officer determines to be extremely dangerous to public health or safety, a dog that has made an extremely vicious attack upon a human or domestic animal, or a dog declared dangerous whose owner is unable or unwilling to adequately restrain it.

B. The animal control officer shall notify the owner or custodian of the destroyed dog, by certified mail, of the destruction within five business days of the destruction. (Am. Ord. No. 1171, 11/9/17)

SECTION 3-223: DANGEROUS DOGS; SALE OR TRANSFER OF OWNERSHIP PROHIBITED

No person shall sell, barter, or in any other way transfer a dangerous dog registered with the city to any other person within the city. (Am. Ord. No. 1171, 11/9/17)

SECTION 3-224: DANGEROUS DOGS; CONTINUATION OF DECLARATION

Any dog that has been declared dangerous by any agency or department of this city, another municipality, county, or state shall be subject to the provisions of Sections 3-214 through 3-224 for the remainder of its life. The person owning or having custody of any dog designated as a dangerous dog by any municipality, county, or state government shall notify the animal control officer of the dog's address and conditions of maintenance within ten days of moving the animal into the city. The restrictions and conditions of maintenance of any dog declared dangerous by this city, another municipality, county or state shall remain in force while the dog remains in the city. (Am. Ord. No. 1171, 11/9/17)

SECTION 3-225: IMPOUNDMENT; GENERALLY

A. It shall be the duty of the animal control officer to capture, secure, and remove in a humane manner to the city animal shelter any dog, not suspected of being dangerous, violating any of the provisions of this article. Every dog so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not less than five days after public notice has been given, unless reclaimed earlier by the owner.

B. Notice of impoundment, including any significant marks or identification, shall be posted at the office of the city clerk within 24 hours after impoundment as public notification of such impoundment; provided, if the owner of the dog is known, the clerk may also attempt to personally notify the owner of the impoundment. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the City Council and filed in the office of the city clerk. The owner shall then be required to comply with the licensing

and rabies vaccination requirements within 72 hours after release, in addition to any other requirements as required in this article for the keeping of a dog within the jurisdiction of the city. Any dog may be reclaimed by its owner during the period of impoundment by payment of the costs of impoundment. A dog may not be reclaimed more than three times. A dog impounded for the fourth time will be subject to adoption or disposal.

C. If the dog is not claimed at the end of the required waiting period after public notice has been given, the city police may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same. If a suitable home or placement can be found for any dog subject to disposal or destruction, the dog may be adopted into a new environment and/or home. All dogs being adopted will be spayed or neutered prior to their release to the adopter. The adopter will be required to pay an adoption fee, as set by resolution of the City Council and kept on file at the office of the city clerk, prior to being spayed or neutered and being released to the adopter. If the adopter is a resident of the city, the annual licensing fee will also be collected prior to the dog being spayed or neutered, or released to the adopter.

D. The city shall acquire legal title to any unlicensed dog impounded in the shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the animal control officer unless a suitable home can be found for such dog as provided in subsection (C) above.

(Neb. Rev. Stat. §17-548) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

SECTION 3-226: INTERFERENCE WITH ANIMAL CONTROL

It shall be unlawful for any person to hinder, delay, or interfere with any animal control officer who is performing any duty enjoined upon him or her by the provisions of this article or to break open or in any manner directly or indirectly aid, counsel, or advise breaking into the animal shelter or any vehicle used for the collecting or conveying of dogs to the shelter. A violation of this section shall be punishable by a fine of \$100.00.

(Neb. Rev. Stat. §28-906) (Am. Ord. Nos. 1153, 2/11/16; 1171, 11/9/17)

Article 3 – Kennels

SECTION 3-301: DEFINED

"Kennel" is defined for this article as any lot or parcel of land or place where more than three dogs or more than three cats over the age of 12 weeks are confined, treated, boarded, housed, or cared for, but shall not include any lot or parcel of land or place where a person, corporation, or other entity engages in, conducts, manages, or maintains a veterinary business, regardless of the number of animals treated, kept, confined, or boarded. This article shall not apply to animal shelters operated by licensed veterinarians.

SECTION 3-302: LICENSE REQUIRED; NUISANCE

It shall be 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 maintenance, keeping, conducting or operation of a kennel without first obtaining a license as described herein is hereby declared to be a nuisance.

SECTION 3-303: APPLICATION; LICENSE

Any person or legal entity seeking a kennel license shall make written application to the City Council on a form provided by the city clerk. Such application shall be accompanied by a fee as set by resolution and kept on file at the office of the city clerk, and shall state in detail the type, number, and gender of animals to be held in such kennel, describe the kennel facility in detail including a scale drawing of the facility, and provide such other information as may be required by the 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. In the event that the City Council determines that such kennel would not constitute a nuisance, it shall issue such 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 as set by resolution of the City Council and kept on file in the office of the city clerk. The license shall not be issued until such fee is paid.

SECTION 3-304: 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 BANNED FROM CITY; CHICKENS EXEMPTED UNDER CONDITIONS

A. It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine or other livestock or any turkeys, geese, ducks or other fowl; provided, however, this section shall not apply to chickens as described in subsection (C) herein.

B. It shall be unlawful for any person to harbor, maintain or control a wild, dangerous or undomesticated animal within the City. A “wild, dangerous or undomesticated animal” shall be one which is not of a species customarily used as an ordinary household pet but one which would ordinarily (1) be confined to a zoo, (2) be found in the wilderness of this or any other country, or (3) cause a reasonable person to be fearful of bodily harm or property damage. Fish in an aquarium are not included in this definition. Nothing in this section is intended to prohibit a circus or other entertainment organization, an educational, scientific, or medical institution or the Department of Parks and Recreation from keeping such an animal where the same is securely and humanely confined.

C. A resident of the city may keep or harbor a maximum of six chickens within the city limits and within the city’s extraterritorial zoning areas under the following conditions:

1. A maximum of six chickens may be kept or maintained for hobby, recreational, subsistence or non-commercial purposes;
2. “Chickens” are defined as domestic fowl typically maintained on farms for their eggs or meat; provided, however, for purposes of this section, “chickens” shall not include roosters. It shall be unlawful for any person to keep or maintain a rooster within the corporate limits of the city. “Chickens” do not include ducks, geese, turkeys, guinea fowl or any other fowl;
3. All chickens shall be secured within coops, pens, enclosures or shelters which are located no closer than 8 feet to an adjacent property line and no closer than 30 feet to a neighboring residence. All coops, pens, enclosures or shelters shall be maintained in rear yards. A rear yard is defined as that portion of property which extends from the rear of a dwelling to the alley. It shall be unlawful to harbor or maintain free-roaming chickens, and it shall be unlawful to harbor or maintain chickens or chicken coops, pens, enclosures or shelters in front or side yards.

D. Violations of this section may be punishable by a fine in the amount of \$100.00 per occurrence. Every individual animal maintained or harbored in violation of this section shall be deemed to be one occurrence. Further, any police officer, animal

control officer, or other person duly authorized by the city shall have the authority to enforce the provisions of this section and may further take possession of any animal which the officer or authorized representative reasonably believes is being maintained, harbored or possessed in violation of this section. If the person in possession of such animal refuses to relinquish possession of the animal, the officer or authorized person shall obtain an appropriate court order authorizing the seizure of such animal. Animals otherwise prohibited or banned by this section found in any public place or found unrestrained or running at large on any city street, sidewalk, public property, or property belonging to anyone who is not the owner of that animal may be seized without a warrant or court order. Any person or entity violating this section shall, in addition to any other penalty, forfeit the animal to the officer or authorized representative for destruction or disposition, and all costs of such seizure, disposition or destruction shall be assessed to the defendant or person in violation of this section.

(Neb. Rev. Stat. §17-547) (Am. Ord. No. 1184, 8/8/19)

SECTION 3-402: PROHIBITED BUSINESSES; USES

A. It shall be unlawful for any person, firm, partnership or corporation to maintain, erect or operate any stockyard, sale barn, livestock auction ring or animal weighing pen within the corporate limits of the city. This prohibition shall not apply to such places that have been continuously maintained and operated on Blocks 47, 48 or 49, all in the Original Town of Gordon, Nebraska, since on or before March 5, 1953. If the use of any such excepted place is discontinued for any period of time, the prohibition of this section shall apply to any further use of the premises. All pens and enclosures in such excepted places shall be kept in a clean, sanitary and orderly manner so as not to become a menace or nuisance to any resident of the city.

B. Any use of a premises in violation of the provisions of this section is hereby declared to be a nuisance. The city manager shall, at his or her discretion, authorize an investigation to ascertain whether the provisions of this section have been violated. Whenever violations are found to exist, the city manager shall direct the police chief to serve a written notice to abate such nuisance upon the person(s) owning, occupying or leasing the premises upon which the nuisance exists.

SECTION 3-403: PROHIBITED; AMPHIBIANS; ARACHNIDS; REPTILES

A. *Prohibited Animals.* It shall be unlawful for any person to bring into, keep, maintain, offer for sale or barter, or release anywhere in the city any of the following animals:

1. Any poisonous or venomous biting or injecting species of amphibian, arachnid or reptile, including snakes; or
2. Any snake not indigenous to this state.

B. *Exceptions.* This section shall not prohibit a circus or other entertainment organization; an educational, scientific, or medical institution; or the Department of Parks

and Recreation from keeping such an animal where the same is securely and humanely confined.

C. *Seizure of Animals.* Any officer employed and authorized by the Health Department or any police or humane officer of the city shall have the authority to enforce the provisions of this section including but not limited to taking possession of any animal which the officer reasonably believes has been taken, employed, used or possessed in violation of this section. If the person in possession of such animal refuses to relinquish possession of the animal, the police officer or humane officer shall obtain an appropriate court order, with the assistance of the city attorney, to obtain possession. This section shall not be interpreted to authorize or attempt to authorize entry into places not open to the public without the consent of the owner or person in possession, a search warrant, or other court order.

D. *Holding Animals.* Any animal seized shall be held by the humane officer or designee of the Health Department until that animal is identified to ascertain if the animal is an endangered species. At any time after such identification, the city may seek an order from a court for other care, custody and control of the animal. The city may also request the court to order the defendant to post a bond in an amount sufficient to satisfy the cost of holding the animal.

E. *Forfeiting Possession.* Anyone violating this section shall, in addition to any other penalty, forfeit the animal to the city humane officer for destruction or disposition. Prior to such forfeiture, the Health Department may direct a transfer of the animal to a qualified zoological, educational or scientific institution or qualified private keeper for safekeeping, with costs assessed to the defendant.

SECTION 3-404: 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, or mortgagee of real estate in the city to keep such real estate free of public nuisances. (Neb. Rev. Stat. §§17-207, 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.
- (Neb. Rev. Stat. §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 contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the city nor the dumping of non-putrefying waste in a place and manner approved by the health officer.

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

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

H. Any buildings or structures which have any or all of the defects defined at Section 3-601 hereafter.

I. All places used or maintained (1) as junkyards or dumping grounds; (2) for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind; (3) for the storing or leaving of worn-out, wrecked, or abandoned automobiles, trucks, tractors, or machinery of any kind or of any of the parts thereof; or (4) for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons in any residential designated area of the city.

J. Stagnant water permitted or maintained on any lot or piece of ground.

K. 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.

L. Any motor vehicle without a current license and not housed in a storage or other building, except as provided herein:

1. It shall be unlawful for any person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, to allow any non-operating, wrecked, junked, or partially dismantled vehicle to remain on such property longer than 30 days. It shall be unlawful for any person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, to allow any vehicle which has been unregistered for more than 30 days to remain on such property.

This section shall not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the lawful operation of such business enterprise, a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, or a vehicle on the premises of a person who has obtained a hobbyist permit which is then in effect for the restoration of said vehicle, as provided in subsection (2) below.

2. A hobbyist permit for the restoration or repair of up to two non-operating, wrecked, junked, or partially dismantled vehicles on any premises used for residential purposes may be granted to the resident of such premises as follows:
 - a. Application for a hobbyist permit shall be filed in writing with the city clerk on a form provided by the city and shall contain the name and address of the applicant and the make, model, year, and vehicle identification number on each vehicle to be restored or repaired. The vehicle(s) to be restored or repaired shall be owned by the applicant.
 - b. The fee for such hobbyist permit shall be as set by the City Council by resolution and kept on file in the office of the city clerk. All such permits shall expire one year following the date of issuance thereof.

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

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

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

P. Maintenance of weeds, grasses or worthless vegetation of 12 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*).

Q. All other things specifically designated as nuisances elsewhere in this code. (Neb. Rev. Stat. §18-1720) (Am. Ord. No. 1125, 12/10/09)

SECTION 3-504: NOTICE PROCEDURE; ABATEMENT

A. Whenever the city manager, or other officer appointed by the mayor determines that any weeds or grasses in excess of 12 inches are growing on property within the city, or other nuisance, as defined herein, is found on any property, the following abatement procedure shall be followed:

1. The city manager or other authorized person shall document the weeds or nuisance by photographing the same. Once the weeds or nuisance has been documented, the city clerk shall give notice to mow, abate, and remove such weeds or nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if any, by personal service or certified mail with return receipt requested. If mailed, such notice shall be conspicuously marked as to its importance. Personal service shall be made by the chief of police or code enforcement officer. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or property upon which the nuisance is to be abated or removed. Such notice shall contain a copy of the photograph of the weeds or nuisance, a copy of this nuisance ordinance, instructions on abatement of the weeds or nuisance, time in which such abatement shall take place, and possible penalties for failure to abate.
2. Within five business days after receipt of such notice, the owner, agent or occupant of the lot or piece of ground may request a hearing with the city to appeal the order to mow, abate, or remove the weeds or nuisance by filing a written appeal with the office of the city clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the mayor as hearing officer. The mayor shall render a decision on the appeal within five business days after the conclusion of the hearing. The hearing shall be conducted informally and the formal rules of evidence shall not apply but either party may appear with an attorney and may request that the hearing be recorded for appeal purposes. Any decision rendered by the mayor may be appealed to the District Court. If no appeal is taken within ten days of the mayor's decision, the owner, agent, or occupant shall promptly comply with the notice to abate. If abatement is not completed within 20 days of the mayor's decision and no appeal is taken, the city shall proceed pursuant to subsections (3) and (4) below or to subsections (B)(1) and (2) as set forth below.
3. Within ten days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to appeal the decision of the mayor and fails to comply with the order to mow

or abate and remove the weeds or nuisance, the city shall again photograph the weeds or nuisance to document that abatement has not occurred.

4. If abatement has not occurred within the time prescribed, the City may deliver the original photographs, a copy of the delivered notice to abate, the certificate of delivery or acknowledged return receipt of the notice, and the photographs taken subsequent to the time to abate has elapsed to the prosecuting attorney for the city and request that charges be filed against the owner or occupant of the premises for maintenance of a nuisance.

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

1. Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed, or
2. Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(Am. Ord. No. 1125, 12/10/09)

SECTION 3-505: SECOND OFFENSE

In the event that an owner or agent of any property with the city shall have received a notice to correct or abate a nuisance within the past 12 months and is again charged with maintaining a nuisance, as defined herein, the chief of police shall document such offense as set forth above and request that a complaint against such owner, agent or occupant be filed for maintenance of a nuisance with the County Court.

SECTION 3-506: JURISDICTION

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

SECTION 3-507: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

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

Article 6 – Dangerous Buildings

SECTION 3-601: DETERMINATION AND DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

(Neb. Rev. Stat. §18-1720)

SECTION 3-602: BUILDING INSPECTOR

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

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

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

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

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

SECTION 3-603: 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 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.

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

SECTION 3-604: UNLAWFUL MAINTENANCE

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

SECTION 3-605: 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; and

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. (Neb. Rev. Stat. §18-1722)

SECTION 3-607: DISPUTES

A. In the event that the owner, occupant, lessee, mortgagee, agent or other per-

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

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

SECTION 3-608: APPEAL

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

SECTION 3-609: 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 – Penal Provisions

SECTION 3-701: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in the amount identified in the ordinance. In the event no fine is specified for any violation, said violation shall be punishable by a fine of not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

SECTION 3-702: 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)