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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. (Neb. Rev. Stat. §28-906)

#### **SECTION 3-102: RESISTING OR FAILING TO ASSIST OFFICER**

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: 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 is attempted. (Neb. Rev. Stat. §28-904)

#### **SECTION 3-105: 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 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. (Neb. Rev. Stat. §28-1202)

### **SECTION 3-106: 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. (Neb. Rev. Stat. §17-556)

### **SECTION 3-107: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENTS**

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle or other like instruments capable of launching a dangerous projectile therefrom at any time or under any circumstances within the city. (Neb. Rev. Stat. §17-207)

### **SECTION 3-108: 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 3-109: CRIMINAL TRESPASS**

It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so:

A. To enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof; or

B. To enter or remain in any place as to which notice against trespass is given by (1) actual communication to the actor; or (2) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or (3) fencing or other enclosure manifestly designed to exclude intruders.  
(Neb. Rev. Stat. §28-520, 28-521)

### **SECTION 3-110: PUBLIC INDECENCY**

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

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

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

C. A lewd fondling or caressing of the body of any other person of the same or opposite sex.  
(Neb. Rev. Stat. §28-806)

### **SECTION 3-111: 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 3-112: CRIMINAL MISCHIEF**

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$1,500.00. (Neb. Rev. Stat. §28-519)

**SECTION 3-113: THEFT**

It shall be unlawful for any person within the corporate limits to steal any money, goods, or chattels of any kind whatever. Any person who shall steal property of any kind, whether the same is property having a value of less than \$500.00, shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §28-509 through 28-518)

**SECTION 3-114: 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 3-115: DISORDERLY CONDUCT**

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct himself in such a way as to breach the peace shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §17-556)

**SECTION 3-116: DISTURBING AN ASSEMBLY**

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

**SECTION 3-117: DISTURBING THE PEACE**

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

**SECTION 3-118: 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.

**SECTION 3-119: MISREPRESENTATION BY MINOR**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-102, 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 3-120: MINOR IN POSSESSION**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-102, to transport, knowingly possess or have under his or her control in any motor vehicle, beer or other alcoholic liquor on any public street, alley, roadway or property owned by the state or any subdivision thereof or any other place within the city limits. (Neb. Rev. Stat. §53-180.02, 53-180.05)

**SECTION 3-121: DISPENSING OF TOBACCO PRODUCTS FROM VENDING MACHINES; EXCEPTIONS**

A. Except as provided in subsection (B) of this section, it shall be unlawful to dispense cigarettes or other tobacco products from a vending machine or similar device.

B. Cigarettes or other tobacco products may be dispensed from a vending machine or similar device when such machine or device is located in an area, office, business, plant, or factory which is not open to the general public or on the licensed premises of any establishment having a license issued under the Nebraska Liquor Control Act for the sale of alcoholic liquor for consumption on the premises when such machine or device is located in the same room in which the alcoholic liquor is dispensed.

(Neb. Rev. Stat. §28-1429.02) (Ord. No. 360, 2/2/93)

**SECTION 3-122: 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 water craft commits the offense of littering.

C. "Litter" as used in this section means all rubbish, refuse, waste material, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description, but does not include the wastes or primary processes of farming or manufacturing.

(Neb. Rev. Stat. §17-123.01, 28-523) (Ord. No. 414, 3/7/95)

**SECTION 3-123: 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.

#### **SECTION 3-124: POSTED ADVERTISEMENTS**

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

#### **SECTION 3-125: APPLIANCES IN YARD**

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

#### **SECTION 3-126: 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.

#### **SECTION 3-127: INJURY TO 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 planted or growing in the corporate limits or their fruit. 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 3-128: DISEASED OR DYING TREES**

A. It is hereby declared a nuisance for a property owner to permit, allow or maintain any dead or diseased trees within the right of way of streets or on private property within the corporate limits of the city.

B. For the purpose of carrying out the provisions of this section, any city official shall have the authority to enter upon private property to inspect the trees thereon.

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

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

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

(Neb. Rev. Stat. §18-1720, 28-1321) (Ord. No. 413, 3/7/95)

### **SECTION 3-129: DEAD OR HAZARD TREE REMOVAL**

The city shall have the right to cause to be removed any tree within the city limits that is dead or has been declared a hazard. "Hazard trees" are defined as trees with severe structural defects or splits. The city will notify the owners of such trees. Removal is the responsibility of the owners of such trees and shall be accomplished within time limits set by the community forest manager.

### **SECTION 3-130: 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 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)



## **Article 2 – Dogs and Cats**

### **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; and specifically in reference to a collarless 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) (Ord. No. 601-A, 11/8/05)

### **SECTION 3-202: RABIES VACCINATION**

Every dog or cat shall be vaccinated against rabies pursuant to Nebraska law. Unvaccinated dogs or cats 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 or cats owned by a person temporarily residing within this city for fewer than 30 days, any dog or cat brought into this city for show purposes, or any dog or cat brought into this city for hunting purposes for a period of fewer than 30 days; such dogs or cats shall be kept under the strict supervision of the owner. (Neb. Rev. Stat. §71-4402)

### **SECTION 3-203: RABIES CERTIFICATE; LICENSING; FEE**

A. Any person who shall own, keep, or harbor a dog or cat over the age of six months within the city shall within 30 days after acquisition of the animal acquire a license for each animal annually by or before January 15 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 or cat owned and kept by him or her. A certificate stating that the animal has had a rabies shot, effective for the current 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 or cat 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 for each dog or cat, as set by resolution of the City Council, the city clerk shall issue to the owner a license certificate and a me-

tallic tag for each animal so licensed. The city shall, in addition to the license tax imposed, collect from the licensee a fee as required by the state. The clerk shall retain a small amount from the said fee and remit the balance to the state treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The amount collected from the state fee shall be credited to the general fund.

C. The dog or cat tax shall be delinquent from and after January 31; provided, the possessor of any dog or cat brought into or harbored within the corporate limits subsequent to January 15 shall be liable for the payment of the animal tax levied herein and such tax shall be delinquent if not paid within 15 days thereafter. It shall be the duty of the city clerk 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 or cat so licensed and shall entitle the owner to keep or harbor the animal until December 31 of the current year. Licenses shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog or cat.

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. by Ord. Nos. 517, 7/7/98; 601, 11/5/05; 601-A, 11/8/05; 697, 12/12/17; 730, 10/11/22)

### **SECTION 3-204: LIMITATION ON NUMBER ALLOWED**

No owner or keeper of any dogs or cats shall keep, harbor, or maintain in, about or upon the premises occupied by such owner as his or her residence, more than four dogs and/or cats total at any one time. The offspring of any dog or cat shall not count toward the maximum number of dogs or cats allowed, for a period of four months after the birth of said offspring. (Ord. No. 641, 6/12/12)

### **SECTION 3-205: 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 set by resolution of the City Council for each duplicate tag so issued. Such resolution shall be placed on file in the office of the city clerk for public inspection. (Neb. Rev. Stat. §17-526, 54-603)

### **SECTION 3-206: WRONGFUL LICENSING**

It shall be unlawful for the owner, keeper, or harbinger of any dog or cat to permit or allow such dog or cat to wear any license, metallic tag or other city identification than that issued by the city clerk nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unspayed female dog or cat with a license prescribed for a male

or spayed female dog or cat. (Neb. Rev. Stat. §17-526) (Ord. No. 601-A, 11/8/05)

### **SECTION 3-207: REMOVAL OF LICENSE TAGS**

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

### **SECTION 3-208: COLLAR AND NAME TAG REQUIRED**

It shall be the duty of every owner of any dog or cat to securely place upon the neck of such dog or cat a good and sufficient collar with a metallic plate attached thereon which shall be plainly inscribed with the name of such owner. (Neb. Rev. Stat. §54-605)

### **SECTION 3-209: RUNNING AT LARGE**

It shall be unlawful for the owner of any dog or cat to allow such dog or cat 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 or cat found to be running at large within the city to be taken up and impounded. "Running at large" shall mean a dog or cat 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. (Neb. Rev. Stat. §17-526, 54-607) (Ord. No. 601-A, 11/8/05)

### **SECTION 3-210: DAMAGE; LIABILITY OF OWNER**

It shall be unlawful for any person to allow a dog or cat 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 or cat, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Neb. Rev. Stat. §18-1720, 54-601, 54-602)

### **SECTION 3-211: OFFENSIVE BEHAVIOR**

It shall be unlawful for any person to own, keep, or harbor any dog or cat which by loud, continued, or frequent barking, howling, yelping or meowing shall annoy or disturb any neighborhood or person or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the city. Upon the written complaint of one person filed with the city clerk, that any dog or cat owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section, the 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 or cat. The provisions of this section shall not be construed to apply to the city animal shelter. (Neb. Rev. Stat. §17-526)

**SECTION 3-212: FEMALE IN SEASON**

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

**SECTION 3-213: FIGHTING DOGS**

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. (Neb. Rev. Stat. §17-526)

**SECTION 3-214: RABIES PROCLAMATION**

It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid animals is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog or cat to muzzle the same or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation or until such danger is past. The dog or cat may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning, keeping, or harboring any dog or cat to confine the same as herein provided. (Neb. Rev. Stat. §17-526) (Ord. No. 601-A, 11/8/05)

**SECTION 3-215: RABIES SUSPECTED; IMPOUNDMENT**

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

**SECTION 3-216: DANGEROUS DOGS; DEFINITIONS**

“Dangerous dog” shall mean any dog that, according to the records of the animal control authority:

- A. Has killed or inflicted injury on a human being on public or private property;



B. Has killed a domestic animal without provocation; or

C. Has been previously determined to be a potentially dangerous dog by an animal control authority and the owner has received notice of such determination; and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

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

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

“Domestic animal” shall mean a cat, a dog, or livestock.

“Medical treatment” means treatment administered by a physician or other licensed health care professional that results in sutures or surgery or treatment for one or more broken bones.

“Potentially dangerous dog” shall mean:

A. Any dog that, when unprovoked:

1. Inflicts a non-severe injury on a human or injures a domestic animal on either public or private property; or
2. Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

B. Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

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

(Neb. Rev. Stat. §54-617) (Ord. Nos. 316, 12/5/89; 715, 7/14/20)

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**SECTION 3-217: DANGEROUS DOGS; CONFINED; WARNING SIGN**

A. While unattended on the owner's property, a dangerous dog shall be securely confined in a humane manner indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall protect the dog from the elements and shall have a secure top, bottom and sides. Any structure or pen is required to meet the setbacks of the zoning regulations of the city.

B. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. Each warning sign shall be no less than 10 inches by 12 inches and shall contain the words "Warning" and "Dangerous Animal" in high-contrast lettering at least 3 inches high on a black background. (Neb. Rev. Stat. §54-619) (Ord. No. 316, 12/5/89)

**SECTION 3-218: DANGEROUS DOGS; RESTRAINED**

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

B. No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the animal is restrained securely by a chain or leash. (Neb. Rev. Stat. §54-618) (Ord. Nos. 316, 12/5/89; 728, 9/12/22)

**SECTION 3-219: DANGEROUS DOGS; FAILURE TO COMPLY; SERIOUS BODILY INJURY; PENALTY; DEFENSE**

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

B. Any owner whose dangerous dog inflicts on a human being a severe injury as defined in Section 3-216 is guilty of a Class I misdemeanor for the first offense and a Class IV felony for a second or subsequent offense, whether or not the same dangerous dog is involved.

C. It is a defense to a violation of subsection (B) of this section that the dangerous dog was, at the time of the infliction of the severe injury, in the custody of or

under the direct control of a person other than the owner or the owner's immediate family.

(Neb. Rev. Stat. §54-620) (Ord. Nos. 316, 12/5/89; 728, 9/12/22)

### **SECTION 3-220: DANGEROUS DOGS; VIOLATION; PRIOR CONVICTION**

A. Any owner convicted of a violation of Sections 3-216 to 3-224 shall not own a dog within ten years after such conviction. Any owner violating this subsection shall be guilty of a Class IIIA misdemeanor and the dog shall be treated as provided in subsection (B) of this Section.

B. Except as provided in Section 3-219, if a dog of an owner with a prior conviction under Sections 3-216 to 3-224 attacks or bites a human being or domestic animal, the owner shall be guilty of a Class IIIA misdemeanor. In addition, the dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

(Neb. Rev. Stat. §54-624) (Ord. No. 316, 12/5/89; 728, 9/12/22; 731, 1/10/23)

### **SECTION 3-221: DANGEROUS DOGS; ADDITIONAL REGULATIONS**

Nothing in this article shall be construed to restrict or prohibit the City Council from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article. (Neb. Rev. Stat. §54-624) (Ord. No. 316, 12/5/89)

### **SECTION 3-222: IMPOUNDMENT**

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

B. Notice of impoundment of all animals, 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. Any dog or cat impounded in accordance with any city ordinance may be reclaimed by its owner only after payment of any and all costs associated with the impoundment, including an impoundment fee per animal. The owner shall also pay any board fees required by the facility in which the dog or cat has been impounded. He or she shall provide proof of rabies vaccination and, if the animal is unlicensed, shall pay the license fee as required in Section 3-203. No dog or cat shall be released from impoundment until all fees have been paid nor shall the animal be released unless the impound facility has verified with the city office that said animal is eligible for release.

C. If the dog or cat is not claimed at the end of the required waiting period after public notice has been given, the city police may dispose of it in accordance with the applicable rules and regulations pertaining to the same; provided, if a suitable home, in the judgment of the city police, can be found for any such dog or cat within the city, the said animal shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this article.

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

(Neb. Rev. Stat. §17-548, 71-4408) (Am. by Ord. No. 697, 12/12/17)

### **SECTION 3-223: DESTRUCTION OF DOG OR CAT; COMPENSATION**

For destroying and burying dogs or cats under the provisions of this article, the official appointed to destroy said animals shall be paid for each animal so destroyed and buried, in addition to his or her regular salary.

### **SECTION 3-224: 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 or cats to the shelter. (Neb. Rev. Stat. §28-906)

### **SECTION 3-225: RECKLESS OWNER**

A. Upon any owner or co-owner from the same household having been convicted of one or more violations of this article on three separate occasions within a 24-month period, or whose dog has been determined to be dangerous or potentially dangerous and who has not complied with the subsequent requirements of this article, or any person convicted of violating Section 3-220, the City Council shall initiate administrative proceedings to declare the owner a reckless owner upon whom all pet licenses in the household shall be revoked. Such proceedings shall be instituted by the mailing or personal service of a written notice to the owner's last known address. The notice shall contain:

1. The name and address of the owner who is subject to such declaration and revocation;
2. The names, descriptions and license numbers of any pet animals licensed to the owner;

3. A description of the violations or requirements which form the basis of such declaration and revocation, including the case numbers, if any;
4. A summary of the effects of such declaration, including revocation of all pet licenses and surrender of all pet animals;
5. The date of proposed entry of the declaration and revocation order which shall be not less than ten days after the date of mailing or personal service of the notice; and
6. Notification of the availability of an appeal, if the owner objects to such declaration and revocation, within ten days of the date of mailing or personal service of the notice.

B. Upon entry of such declaration and revocation order, unless an appeal of such order is filed with the City Council in accordance with this section, such reckless owner shall be required to surrender all pet animals to the animal control authority within 24 hours. Failure to surrender such pet animals is a criminal violation of this act that shall result in prosecution as well as immediate impoundment by the animal control authority. All pet animals surrendered or impounded pursuant to this section shall immediately become the property of the animal control authority and be disposed of as deemed appropriate.

C. An appeal of such declaration and revocation order shall be heard by the City Council and shall provide an opportunity for the owner to appear and offer evidence to dispute the declaration and revocation order within ten business days. The filing fee for each appeal shall be \$100.00. A determination to affirm or reverse such order shall be entered by the City Council within ten days of the date of the hearing.

D. It shall be unlawful for a reckless owner to fail to surrender all animals within 24 hours or to subsequently own, possess, or have control over any pet animal for a period of ten years from the date of entry of the declaration and revocation order.  
(Ord. No. 731, 1/10/23)

## **Article 3 – Animals Generally**

### **SECTION 3-301: ANIMALS AND FOWL**

A. It shall be unlawful for any person to keep on their owned or leased real property any poultry, chickens, turkeys, geese, horses, mules, cows, sheep, goats, swine, or other fowl or similar animals unless and until they have received the written consent of all of the owners and lessees of the real property within 150 feet of the place where such animals or fowl are to be kept, which consent shall be filed at the office of the city clerk and which shall be subject to revocation by the Board of Health at any time. The owner of the animals or fowl shall be liable for any damages done if they run or break loose from their confines.

B. This section shall not apply to any persons that have such animals or fowl on their property in compliance with the previous subsection (A). Anytime the property where such animals or fowl are kept should be sold or not used for the keeping of animals or fowl for a period of six months, the permission to keep the said animals and fowl shall be terminated.

(Neb. Rev. Stat. §17-547) (Am. by Ord. No. 537, 1/11/00)

### **SECTION 3-302: WILD ANIMALS**

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

### **SECTION 3-303: ENCLOSURES**

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

### **SECTION 3-304: 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 4 – Nuisances

### SECTION 3-401: GENERAL PROVISIONS

A. *Purpose.* The City of Blue Hill by this article defines its authority to define, regulate, suppress and prevent nuisances, to declare what shall be a nuisance for its jurisdiction, and to provide services to abate same for the health and sanitation of the city.

B. *Nuisance.* 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:

1. Injures or endangers the comfort, repose, health, or safety of others;
2. Offends decency;
3. Is offensive to the senses;
4. Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the municipality;
5. In any way renders other persons insecure in life or the use of property;  
or
6. Essentially interferes with the comfortable enjoyment of life and property;  
or
7. Tends to depreciate the value of the property of others.

C. “Nuisance” includes but is not limited to the maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things of:

1. Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl;
2. The emission of smoke, dust, fumes, gases, mists, odors, or polluted air from any source that is injurious or dangerous to human health and safety;
3. Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats or other insects and rodents, or which are foul or malodorous;

4. Filthy, littered, or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in the rear of stores, granaries, vacant lots, houses, buildings, or premises;
5. Dead animals or dead animals buried within the corporate limits;
6. Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the municipality;
7. Hauling any garbage, waste, or refuse matter through the streets, alleys, and public ways except when the same is loaded and conveyed in such a way when none of the contents shall be spilled;
8. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity. Nothing herein contained shall prevent the temporary retention of waste in receptacles nor the dumping of non-putrefying waste in a place and manner approved by the city;
9. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;
10. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats or other insects or rodents may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity;
11. Any unsafe building, unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are a fire hazard, or a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity;
12. All places used or maintained as junk yards, or dumping grounds, or for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or

equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;

13. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the municipality, or are maintained and kept in such a manner as to be injurious to the public health;
14. Dead or diseased trees within the right-of-way of streets within the corporate limits of the city, or on private property within the one mile zoning jurisdiction beyond the corporate limits; (Neb. Rev. Stat. §17-555)
15. Undrained lots which hold or may hold stagnant water or any other nuisance;
16. Any condition which allows the perpetuating of insects and rodents;
17. Storage, accumulation, keeping, placing, or allowing to remain trash, garbage, scrap and wrecked, worn-out, broken or inoperative, or partially destroyed or disassembled personal or real property of any kind, including any junk or abandoned motor vehicles, tractors, trailers, machinery, and equipment;
18. Any vehicle which is not properly registered, or is inoperable, wrecked, junked, or partially dismantled and remaining longer than 30 days on private property. This does not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the lawful operation of such business enterprise (such as a licensed salvage dealer, motor vehicle dealer, or farm implement dealer), or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, and so long as the premises which said vehicle is located is not a nuisance and is maintained in a healthful and safe condition. "Vehicle" means the same as defined by Neb. Rev. Stat. §60-136: a "motor vehicle, all- terrain vehicle, minibike, trailer, or semitrailer. "Properly registered" means as required by Nebraska statutes;
19. Lots, pieces of ground, and the adjoining streets and alleys with growth

of weeds or noxious growth;

20. All other things specifically designated as nuisances elsewhere in the City Code.

(Neb. Rev. Stat. §18-1720)

### **SECTION 3-402: ABATEMENT SERVICES; NOTICE PROCEDURE**

A. *Nuisance Officer.* The city shall appoint an individual or organization to identify and enforce abatement of nuisances within the city. Said individual or organization shall be identified as the "nuisance officer" and said appointment shall be identified by resolution of the city.

B. *Identifying Nuisances:*

1. The city may identify suspected nuisances, in which case the city clerk shall, upon direction of the City Council, notify the nuisance officer of the suspected location, person or persons in violation of any provision of this article and provide the address of such alleged nuisance.
2. The city may request that the nuisance officer audit the city for nuisances as defined by the City Code. The nuisance officer shall then view the property or area for any violations of the nuisance regulations of the city. The nuisance officer shall not go upon private property for said audit unless granted permission by the resident/owner of the suspect property.

C. *Confirming, Documenting and Presenting Nuisances.* The nuisance officer shall identify and confirm that in his or her opinion a nuisance exists as defined by federal, state, or city law.

1. Upon confirming that a nuisance appears to exist, the nuisance officer shall document said nuisance with photographs and other evidence pertinent to the situation. He or she will also obtain the legal description of the property and identify the current owners and, if possible, the occupants of the property upon which the nuisance exists.
2. The nuisance officer shall then present this information to the City Council at a regular or special meeting for its confirmation that a nuisance exists as stated herein.

(Neb. Rev. Stat. §18-1720)

### **SECTION 3-403: ENFORCEMENT**

The nuisance, health and/or sanitation violation shall be brought to the City Council by the nuisance officer or the board of health or upon the council's own action. The council then may declare by resolution a nuisance, health and/or sanitation violation. The nuisance, health, and/or sanitation ordinances may be enforced by: (1) city ad-

ministrative procedures; (2) penal prosecutions through the courts, and/or (3) civil procedures in the courts. Any of these procedures, or any combination of these procedures, may be used to enforce the nuisance, health and/or sanitation ordinances of the city.

A. *Administrative Procedure.* The city may proceed with abatement of the nuisance, sanitation, and/or health violation with or without court involvement after the following procedure is followed:

1. After a nuisance is declared, the city clerk shall notify the nuisance officer to serve notice upon the violator(s).
2. The nuisance officer shall prepare and serve notice which shall describe the found nuisance and state the required date when abatement and removal of the nuisance are to be accomplished. The notice shall also provide information as to how the interested parties may request a hearing before the City Council, described in paragraph 4 herein.
3. The notice shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, said notice shall be given by a single publication in a newspaper of general circulation in the city or county of the city and by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. The date of service is determined by the later of certified mail receipt, personal service or publication date.
4. The accused violator (owner/agent/occupant) may request in writing a hearing before the City Council within five days after notice of violation is served or published. For tree nuisance violations, the period for requesting a hearing is extended to 30 days after service.
5. If no request for a hearing is received in the required time period, the City Council may cause a hearing to be held. This option is at the *sole discretion* of the City Council, to be used in exceptional cases.
6. If a hearing is requested, the city clerk shall fix a date for said hearing, to be no later than 15 days from receipt of the request for the hearing. Notice of said hearing stating the date and time shall be served upon the agent, owner, and occupant of the nuisance property by certified and regular mail.
7. The hearing, held before a quorum of the City Council, shall be a "show cause" hearing in which the agent, owner, or occupant of the nuisance property shall provide evidence why the alleged condition should not be found to be a public nuisance and remedied. The mayor may conduct the

hearing or may appoint another person as the hearing officer to conduct it. Said hearing officer may be the city attorney or the enforcement officer. At the hearing, the hearing officer shall mark and receive evidence which was presented when the finding of a nuisance was made, relevant evidence of the nuisance since that time, and evidence that the notices were properly given. The objecting party shall then provide evidence. The rules of evidence are not required at said hearing, but all evidence must be relevant to the particular nuisance being heard. Testimony shall be under oath as administered by the hearing officer or any person so designated by the hearing officer, and the person providing the testimony is subject to the laws of perjury. Evidence may be submitted in writing by affidavit.

8. No later than 14 days after the hearing and consideration of the evidence, the City Council may by majority vote rescind the resolution of violation. If the resolution of violation is not rescinded, it shall stand. Furthermore, if the objector or designated agent fails to appear at the hearing or does not provide evidence, the nuisance shall stand. If the resolution is not rescinded, the City Council may by resolution extend the date that owner, occupant, lessee, or mortgagee shall abate and remedy the said public nuisance; but in no case shall this time exceed 60 days. The findings of the council shall be made no later than 14 days after the hearing and notice of its finding shall be served upon the objecting party by regular U.S. Mail within five days of the finding. The finding of this hearing is final, provided that an interested party or parties may appeal such decision to the appropriate court for adjudication.
9. If the nuisance officer determines the nuisance is not remedied and abated within the time period designated, the city shall cause the abatement of the nuisance.
10. If an interested party properly appeals the findings and orders of the city to an appropriate court, the city's actions shall be stayed until such time that the legal proceedings are completed or dismissed. In cases of appeal from an action of the city 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.

B. *Penal Court Enforcement Procedure.* If the declared nuisance, health, and/or sanitation violations are not abated within 15 days of service of the notice upon the owner and/or occupant and the city clerk has not received a request for hearing, the nuisance officer may cause issuance of a citation for the code violation.

1. The citation shall be prosecuted to the appropriate court by the city attorney or other designated prosecutor for the city.

2. A person or persons found guilty of these violations shall be guilty of a misdemeanor and fined up to \$500.00 per each offense.
3. Each day that the nuisance as identified in the nuisance resolution and notice is not abated shall be a separate offense and subject to a separate fine.

C. *Civil Court Procedure.* The City Council may instruct the city attorney by resolution to file a civil action for the abatement of a nuisance. Said civil suit may commence after 15 days' notice has been served as stated herein and may be filed and prosecuted at the same time any other enforcement procedure has commenced, terminated or is in progress.  
(Neb. Rev. Stat. §19-710)

### **SECTION 3-404: EXPENSES**

A. When the city has effected the abatement of the nuisance, health and/or sanitation violation through either city employees or through contract with a third party and has incurred expenses and costs thereof, the actual costs thereof shall be charged to the owner, agent, occupant or person in possession, charge or control of such property. The billing shall be calculated at the actual cost of abating the nuisance plus a \$25.00 administrative fee.

B. This billing shall be submitted by regular U.S. Mail to the last known address of the owner of the nuisance property as found in the county treasurer's office.

C. If said costs are not paid within two months after the work is done and one month after the expenses and costs are submitted to the owner and/or occupant, the city may levy and assess the expenses and costs upon the real estate benefitted by the actions in the same manner as other special assessments are levied and assessed. The city may collect said assessments in the same procedure as other special assessments are collected. The city may also recover said expenses and costs of abating the nuisance, health and/or sanitation violation(s) in a civil action in the courts of the appropriate county in Nebraska.

### **SECTION 3-405: DANGEROUS BUILDINGS; DEFECTS**

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.

### **SECTION 3-406: DANGEROUS BUILDINGS; BUILDING INSPECTOR**

A specially designated building inspector, his or her authorized representatives, or a professional engineer shall, at the direction of the City Council:

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



dangerous or unsafe manner;

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

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

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

### **SECTION 3-407: DANGEROUS BUILDINGS; 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.

### **SECTION 3-408: DANGEROUS BUILDINGS; UNLAWFUL MAINTENANCE**

It is hereby determined unlawful to maintain a dangerous building within the corporate limits of the city or within its zoning jurisdiction.

### **SECTION 3-409: DANGEROUS BUILDINGS; NUISANCE; PROCEDURE**

If the specially designated building inspector or his or her 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.

### **SECTION 3-410: DANGEROUS BUILDINGS; FAILURE TO COMPLY**

If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of the city to repair, rehabilitate, or demolish and remove a building or structure which is an unsafe building or structure and a public nuisance, 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. The council may:

1. Levy the cost as a special assessment against the lot or real estate upon which the building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or

2. Collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

(Neb. Rev. Stat. §18-1722) (Am. Ord. No. 701, 6/12/18)

### **SECTION 3-411: DANGEROUS BUILDINGS; DISPUTES**

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

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

of the city regarding the inspection and notice. The City Council need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the council shall be final unless appealed. Failure of the person to attend the hearing shall relieve the council of any further procedures before action is taken as set forth in a notice.

#### **SECTION 3-412: DANGEROUS BUILDINGS; APPEAL**

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

#### **SECTION 3-413: DANGEROUS BUILDINGS; 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 City Council, may immediately contract for the immediate demolition of the unsafe or dangerous building without requiring bids. The cost of such emergency vacation and demolition of unsafe or dangerous buildings or structures shall be levied, equalized, and assessed, as are other special assessments.

#### **SECTION 3-414: DANGEROUS BUILDINGS; PENALTY**

Any person, firm or other legal entity maintaining a dangerous building within the corporate limits of the city or its zoning jurisdiction shall be guilty of violation of this ordinance and shall be fined in a sum not to exceed \$500.00. Each day's violation shall constitute a separate offense.

#### **SECTION 3-415: JURISDICTION**

The mayor and city marshal are directed to enforce this City Code against all nuisances. The jurisdiction of the mayor, city marshal, 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)



## **Article 5 – Sexual Predators**

(Ord. No. 611, 9/11/07)

### **SECTION 3-501: DEFINITIONS**

For purposes of this ordinance:

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

“Reside” means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;

“Residence” means a place where an individual sleeps, lives, or dwells, which may include more than one location, and may be mobile or transitory;

“School” means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;

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

“Sexual predator” means an individual required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01 and who has victimized a person 18 years of age or younger.  
(Neb. Rev. Stat. §29-4016)

### **SECTION 3-502: 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. (Neb. Rev. Stat. §29-4017)

### **SECTION 3-503: EXCEPTIONS**

This ordinance shall not apply to a sexual predator who (A) resides within a prison or correctional or treatment facility operated by the state or a political subdivision; (B) established a residence before July 1, 2006, and has not moved from that residence; or (C) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (Neb. Rev. Stat. §29-4017)



## **Article 6 – Penal Provisions**

### **SECTION 3-601: 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 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. (Am. by Ord. No. 552, 5/9/00)

### **SECTION 3-602: 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) (Ord. No. 600, 2/8/05)