

TITLE IX: GENERAL REGULATIONS

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PARKS

§ 90.01 OPERATION AND FUNDING.

The city owns and operates the municipal parks and other recreational areas. These parks and recreational areas are maintained by the Public Works Department of the city. The Council shall have the authority to adopt rules and regulations for the efficient management of the municipal parks and other recreational areas of the city.
(‘79 Code, § 3-401)

§ 90.02 INJURY TO PROPERTY.

It shall be unlawful for any person to maliciously or willfully cut down, injure or destroy any tree, plant or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area, or injure or destroy any building, structure, equipment, fence, bench, table or any other property of the city parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds.

('79 Code, § 3-402) Penalty, see § 10.99

Statutory reference:

Municipal authority, see Neb. RS 16-230

Related provision, see Neb. RS 16-697.01

Littering prohibited, see Neb. RS 28-525

**§ 90.03 CLOSING HOURS FOR CITY PARKS AND RECREATIONAL AREAS;
EXCEPTION.**

(A) All city parks and recreational areas owned by the city shall be closed to the public between the hours of 10:00 p.m. and 6:00 a.m. from Sunday through Saturday.

(B) In the case of a city sponsored event or activity that terminates after 10:00 p.m., the city park or recreational area wherein the particular event or activity occurs shall be closed 30 minutes after the cessation of said event or activity.

('79 Code, § 3-403) (Ord. 273, passed 6-3-80)

COMMUNITY CENTER**§ 90.30 OWNERSHIP.**

The city owns and manages the Community Center through the Recreation Director and the City Administrator. The Recreation Director shall have the power to hire and supervise such employees as he or she may deem necessary and shall pass such rules and regulations for the operation of the Community Center as may be proper for its efficient management. All actions by the Recreation Director shall be under the supervision and control of the City Council and City Administrator and in the event that the City Council should fail or neglect to appoint a Recreation Director, the City Administrator shall be the Recreation Director ex officio.

('79 Code, § 3-701)

Statutory reference:

Municipal authority, see Neb. RS 16-6,100

§ 90.31 RENTALS.

The Recreation Director may, for the purpose of defraying the expenses involved in maintaining, improving, managing and beautifying the Community Center, make a reasonable rental charge for the use by any person or organization of the Community Center. All rental charges, rules and regulations regarding the Community Center shall be in compliance with the policy statement of the City Council directed to the use of the Community Center. Such statement is on file with the City Clerk. Nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, sex, or national origin in the classification of persons and organizations for rental purposes.
(‘79 Code, § 3-702)

SWIMMING POOL

§ 90.50 OPERATION AND FUNDING.

The city owns and manages the municipal swimming pool. The Administrator shall manage the swimming pool. The Administrator, through the Recreation Director, shall have the power and authority to hire and supervise the swimming pool manager and such employees as they may deem necessary and shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. All actions by the Administrator and Director shall be under the supervision of the City Council.
(‘79 Code, § 3-501)

Statutory reference:

Injury to property, see Neb. RS 16-697.01

§ 90.51 ADMISSION CHARGE.

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, make a reasonable admission charge for the use by any person of the municipal swimming pool. The charges shall be on file at the office of the City Clerk and shall also be posted in a conspicuous place at the municipal swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner, provided that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges.
(‘79 Code, § 3-502)

§ 90.52 RENTALS.

The Recreation Director and Pool Manager shall have the authority to rent the municipal swimming pool to such organizations and other persons as they may in their discretion see fit, subject to the review of the City Council and the Administrator. The City Council shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the City Clerk and posted in a conspicuous place at the municipal swimming pool.
(‘79 Code, § 3-503)

§ 90.53 RULES AND REGULATIONS.

The Administrator and Recreation Director shall have the power and authority to enact and post at the pool rules and regulations for the protection of those using the swimming pool and for the efficient management thereof. They may suspend pool privileges and enforce such other sanctions for the violation of such rules and regulations.
(‘79 Code, § 3-504)

LIBRARY**§ 90.70 OPERATION AND FUNDING.**

The city owns and manages the city library through the City Administrator and the City Librarian and with the advice of the Library Board of Advisors. The Administrator shall have the power and authority to appoint the librarian and to hire such other employees as he or she may deem necessary. The Library Board of Advisors may recommend such other rules and regulations for the operation of the library as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the City Council.
(‘79 Code, § 3-601) (Am. Ord. 328, passed 11-3-82)

Statutory reference:

Power to establish public libraries and reading rooms, see Neb. RS 16-251
Authority to create; powers and duties, see Neb. RS 51-201 through 51-219

§ 90.71 RULES AND REGULATIONS.

The Library Board of Advisors shall recommend rules and regulations for the governing of the city library for the preservation and efficient management thereof. The City Council shall fix and impose by general rules, penalties, and forfeitures for injury to the library grounds, rooms, books, or other property or for failure to return a book. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay any assessments.
(‘79 Code, § 3-602) (Am. Ord. 328, passed 11-3-82)

Statutory reference:

Authority to enact regulations, see Neb. RS 51-205

Civil actions authorized, see Neb. RS 51-214

§ 90.72 DAMAGED AND LOST BOOKS.

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

(‘79 Code, § 3-603)

Statutory reference:

Authority to determine and impose penalties, see Neb. RS 51-211

§ 90.73 BOOK REMOVAL.

It shall be unlawful for any person not authorized by the regulations made by the City Council to take a book from the library without the consent of the librarian or an authorized employee of the library. Any person removing a book from the library without properly checking it out shall be deemed to be guilty of a misdemeanor.

(‘79 Code, § 3-604) Penalty, see § 10.99

Statutory reference:

Authority to determine and impose penalties, see Neb. RS 51-211

Section

Fire Prevention
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FIRE PREVENTION**§ 91.01 NATIONAL FIRE CODES.**

Incorporated herein by reference into this code are the standards recommended by the National Fire Protection Association, known as the National Fire Codes, as amended from time to time. This code shall have the same force and effect as if set out verbatim herein. One copy of the National Fire Codes is on file with the City Clerk and shall be available for public inspection at any reasonable time. ('79 Code, § 7-201)

Statutory reference:

Municipal authority, see Neb. RS 18-132 and 19-222

Zoning and building regulations authorized, see Neb. RS 19-901 through 19-933

Powers and duties of State Fire Marshal, see Neb. RS 81-502

§ 91.02 FIRE CODE ENFORCEMENT.

It shall be the duty of all city officials to enforce the incorporated fire code provisions, and all infractions shall be immediately brought to the attention of the Fire Chief. ('79 Code, § 7-202)

§ 91.03 ENFORCEMENT.

The provisions of this chapter shall be enforced by the Fire Chief or Police Chief or their authorized agents. ('79 Code, § 7-208) (Ord. 137, passed - -)

§ 91.04 LAWFUL ENTRY.

It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the Fire Chief at all reasonable hours to enter to inspect, or cause to be inspected, as often as necessary, the structure for the purpose of examination in harmony with applicable statutes, including but not limited to the Natural Gas Pipeline Safety Act and Petroleum Products and Hazardous Substance Storage and Handling Act, and ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the city ordinances affecting the hazard of fire. ('79 Code, § 7-203)

§ 91.05 VIOLATION NOTICE.

It shall be the duty of the owner, lessee or occupant of any building or structure that was lawfully inspected as hereinbefore prescribed and who receives written or verbal notice of a violation of any of the provisions of the city ordinances to correct the condition that violates the said ordinance or ordinances within five days from the date of receipt of such notice.
(‘79 Code, § 7-204) Penalty, see § 10.99

§ 91.06 OPEN BURNING BAN; WAIVER.

(A) It shall be unlawful to burn trash or other combustible material outside of a permanent structure, and there shall be an open burning ban on all bonfires, outdoor rubbish fires and fires for the purpose of clearing land in the City of La Vista except and unless a special permit is obtained.
(‘79 Code, § 7-205)

(B) (1) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires and fires for the purpose of clearing land.

(2) The Fire Chief of the City Fire Department may waive the open burning ban under subsection (1) of this section for an area under his or her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the Fire Chief to a person desiring to conduct open burning shall be in writing, signed by the Fire Chief and on a form provided by the State Fire Marshal.

(3) The Fire Chief may waive the open burning ban in his or her jurisdiction when conditions are acceptable to the Chief. Anyone intending to burn in that jurisdiction when the open burning ban has been waived shall notify the Fire Department and Sarpy County Dispatch Center prior to starting the burn and when the burn has been extinguished.

(4) The Fire Chief may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.

(5) The Fire Department may charge a fee, the amount of which shall be set from time to time by the Mayor and City Council and a current record of which shall be maintained by the City Clerk, for each such permit issued. This fee shall be remitted to the City Council by deposit with the City Treasurer for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (2) of this section in the course of such state's or political subdivision's official duties.
(‘79 Code, § 7-206) (Ord. 137, passed - -; Am. Ord. 632, passed 9-19-95; Am. Ord. 1162, passed 1-17-12) Penalty, see § 91.99

Statutory reference:

Statewide ban; exemptions, see Neb. RS 81-520.01

§ 91.07 COMBUSTIBLE MATERIAL; STORAGE PROHIBITED.

It shall be unlawful to keep, store, maintain, use, transport, or dispense in the city, including but not limited to in any building or on any premises any waste, refuse, debris, rubbish, garbage, chemical, substance, or material that is combustible or otherwise poses a hazardous risk to life, health, or property in a manner that is not in accordance with any applicable law or that enhances the danger of fire or an event that is hazardous to health, life, or property. Storage of combustible or hazardous materials must be reported in accordance with applicable law, as amended from time to time. ('79 Code, § 7-207) (Ord. 137, passed - -) Penalty, see § 91.99

§ 91.08 FIREPLACES AND INDOOR INCINERATORS EXEMPTED.

Burning in fireplaces and incinerators opening exclusively into the interior of any permanent structure is exempt from the burning ban as well as grilling/outdoor cooking appliances and burn pits but must follow rules regarding burning materials which are allowed and not allowed. ('79 Code, § 7-209) (Am. Ord. 1057, passed 5-6-08; Am. Ord. 1064, passed 7-15-08)

§ 91.09 BURNING MATERIALS; ALLOWED AND NOT ALLOWED.

(A) Except for commercial products expressly manufactured for starting a fire in a wood burning appliance, whether internal or external, no person shall cause or allow any of the following materials to be burned in a wood burning appliance:

- (1) Garbage;
- (2) Treated wood;
- (3) Plastic products;
- (4) Rubber products;
- (5) Waste petroleum products;
- (6) Paints and paint solvents;
- (7) Coal;
- (8) Glossy or colored paper;

(9) Particle board;

(10) Any other material not intended by a manufacturer for use as fuel in a solid fuel burning device.

(B) Fuel allowed by this section shall include, but shall not supersede manufacturer's specifications for a specific wood burning appliance:

(1) Seasoned wood (containing no more than 20% moisture by weight);

(2) Solid fuel (any wood or other non-gaseous or non-liquid fuel) approved by the manufacturer for the appliance.
(Ord. 1059, passed 5-6-08)

REGULATIONS

§ 91.25 EQUIPMENT.

No person other than the Fire Chief, members of the Fire Department, or the Fire Chief's designee shall at any time handle, misuse, or interfere with any of the fire apparatus belonging to the city.
(‘79 Code, § 7-101) Penalty, see § 91.99

Statutory reference:

Criminal mischief, see Neb. RS 28-519

§ 91.26 INTERFERENCE.

It shall be unlawful for any person or persons to hinder or obstruct the Fire Chief or the members of the Fire Department in the performance of their duty.
(‘79 Code, § 7-102) Penalty, see § 91.99

Statutory reference:

Interference with firefighters, see Neb. RS 28-908

§ 91.27 OBSTRUCTION.

It shall be unlawful for any person to obstruct the use of a fire hydrant or have or place any material within 15 feet of the hydrant. Any vehicle or material found as an obstruction may be immediately removed by the Fire Chief or any member of the Fire Department at the risk, cost and expense of the owner or claimant.

('79 Code, § 7-103) Penalty, see § 91.99

Statutory reference:

Parking prohibited, see Neb. RS 60-6,166

§ 91.28 DRIVING OVER HOSE.

It shall be unlawful for any person, without the consent of the Fire Chief or Assistant Fire Chief, to drive any vehicle over unprotected hose of the Fire Department.

('79 Code, § 7-104) Penalty, see § 91.99

Statutory reference:

Similar provisions, see Neb. RS 60-6,184

§ 91.29 TRAFFIC.

No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall (i) approach or park closer than 500 feet to any fire hydrant to which a hose is connected; or (ii) follow closer than 500 feet to any fire apparatus traveling in response to a fire alarm or other emergency; or (iii) drive into or park such vehicle within the block where the fire apparatus has stopped in answer to a fire alarm or other emergency. Nothing herein shall be construed to apply to vehicles carrying medical personnel, members of the Fire Department, or emergency vehicles.

('79 Code, § 7-105) Penalty, see § 91.99

Statutory reference:

Similar provisions, see Neb. RS 60-6,183

§ 91.30 FALSE ALARM.

It shall be unlawful for any person intentionally and without good and reasonable cause to raise any false alarm of fire.

('79 Code, § 7-106) Penalty, see § 91.99

Statutory reference:

False reporting prohibited, see Neb. RS 28-907

False fire alarms prohibited, see Neb. RS 35-520

§ 91.31 PEDESTRIANS.

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed.

('79 Code, § 7-107) Penalty, see § 91.99

Statutory reference:

Interference with firefighters, see Neb. RS 28-908

§ 91.32 FIRE HYDRANTS REQUIRED.

(A) No building shall be constructed or construction commenced thereon upon any lot or tract of ground within the city limits or within the zoning jurisdiction of the city unless it shall be protected by sufficient approved type fire hydrants so that not less than one fire hydrant shall be within 450 feet of all portions of such building, said distance to be measured along public or private roadways accessible to Fire Department mechanized vehicles. In single family areas, no two hydrants shall be separated by more than 600 feet, said distance to be measured along public or private roadways accessible to Fire Department mechanized vehicles. In commercial and apartment, condominium or other multifamily type areas, no two hydrants shall be separated by more than 400 feet, said distance to be measured along public or private roadways accessible to Fire Department mechanized vehicles. All such hydrants shall be located as near to a street intersection as possible for easy access and shall be constructed within the street right-of-way such a way so as not to be closer than one foot to the normal sidewalk location within said street right-of-way and constructed no closer than one foot to the curb line of the street or other street improvement. All fire hydrants located on private property shall have an easy access and shall be located so as to be clearly visible from the street or private drive. Hydrants so installed shall be provided with a continuous water supply sufficient to provide not less than 800 gallons per minute for one hydrant and not less than 1250 gallons per minute where two or more hydrants are required. Such water supply shall be available at a flowing pressure of not less than 20 pounds per square inch at the steamer hydrant outlet. In all future construction where compliance with this section requires hydrants in addition to the regularly spaced hydrants supplied by the Metropolitan Utilities District, such additional hydrants will be installed at the expense of the owner of the property requiring them.

(B) Plans and specifications for all proposed hydrant installations shall be submitted to the City Council and the Fire Chief of the city for approval before such installations shall be made. A copy of such approved plans and specifications shall be kept on file with the City Clerk. Another copy shall be sent to the Metropolitan Utilities District by the City Clerk.

('79 Code, § 7-108) (Ord. 155, passed - -) Penalty, see § 91.99

§ 91.33 ACCESS REQUIRED FOR FIRE APPARATUS.

(A) This section shall apply to all premises that the Fire Department may be called upon to protect in the event of fire or other emergency and which also have one or more of the following characteristics:

- (1) A location that is more than 150 feet from a public road, or
 - (2) A height of more than 30 feet and a location that is more than 50 feet from a public road,
- or
- (3) A floor area of at least 2500 square feet on any one level.

(B) The provisions of this section shall apply to existing premises and conditions as well as to conditions that arise after the effective date of this legislation, except that premises and conditions existing legally prior to the original effective date of this legislation that are not in strict compliance with the provisions hereof may be permitted to continue if they do not constitute an unreasonable hazard to the life or property in the opinion of the Fire Chief.

(C) Fire lanes shall be provided for all premises that are subject to this section so that all buildings of combustible or flammable storage are readily accessible to fire apparatus. All fire lanes required by this section shall meet the following specifications:

- (1) Minimum width of 24 feet.
- (2) Maximum grade of 10%.
- (3) Road edge closest to the building must be at least ten feet from such building.
- (4) The radii of any curve must be at least 45 feet.

(5) If the fire lane is located on a dead end road that is more than 300 feet long, a turn around must be provided at the closed end that is at least 90 feet in diameter.

(D) (1) It shall be unlawful for any person to park any motor vehicle on or obstruct any fire lane. Signs shall be posted at each fire lane and shall read as follows:

"FIRE LANE; NO PARKING AT ANY TIME;
BY ORDER OF LA VISTA MUNICIPAL CODE SECTION 91.33."

(2) All signs shall be printed in red letters on a white background. The designation and maintenance of fire lanes on private property shall be accomplished pursuant to the direction of the Fire Chief.

(E) The city shall have emergency access and control over all fire lanes.

(F) A property owner may request establishment of a loading/unloading zone when all of the following criteria are met:

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- (1) The building is adjacent to a public access traffic lane with a width greater than 36 feet;
- (2) The building is no more than 30 feet tall; and
- (3) The business has a floor area less than 2500 square feet on any one level.

(G) (1) It shall be unlawful for any person to park any motor vehicle on or obstruct any loading/unloading zone for a duration of greater than three minutes. Signs shall be posted at each loading/unloading zone and shall read as follows:

"NO PARKING; 3 MINUTE LOADING AND UNLOADING ONLY;
BY ORDER OF LA VISTA MUNICIPAL CODE § 91.33."

(2) All signs shall be printed in red letters on a white background. The designation and maintenance of loading/unloading zones on private property shall be accomplished pursuant to the direction of the Fire Chief. The loading/unloading zone shall be designated by a yellow curb. ('79 Code, § 7-109) (Ord. 319, passed 8-17-82; Am. Ord. 729, passed 5-5-98) Penalty, see § 91.99

POISONOUS AND FLAMMABLE GASES AND EXPLOSIVES

§ 91.45 POISONOUS AND FLAMMABLE GASES AND EXPLOSIVES.

In addition to notifying the City Fire Department pursuant to Neb. RS 28-1233(3), any person, firm, or corporation desiring to store or keep in the city for any period of time explosive materials, as defined in Neb. RS 28-1213, or any form of poisonous or flammable gas or liquefied petroleum gas shall register such information with the City Clerk 24 hours prior to such storage. The transfer of such explosives or gases to another person within the city shall require the person receiving such explosives or gases to register the transfer and new location of the explosives and gases with the City Clerk. The transfer of explosive materials and gases to a new location by the owner shall require registration of the new location with the City Clerk. This section shall not apply to the storage of five gallons or less of gasoline.

('79 Code, § 7-301) Penalty, see § 91.99

Statutory reference:

State Patrol permits, see Neb. RS 28-1229

Records required, see Neb. RS 28-1233

§ 91.46 STORAGE PERMIT REQUIRED.

In addition to notifying the City Fire Department pursuant to section Neb. RS 28-1233(3), any person desiring to store or keep for any period of time explosive materials defined in Neb. RS 28-1213, shall file with the City Clerk an application for an explosive material storage permit 24 hours prior to such storage. Application for said permit shall contain all the necessary information and documents required for the protection of the residents of the city. The City Clerk shall issue an annual permit to the applicant upon approval of the application by the Police Chief and Fire Chief and the payment of the permit fee, the amount of which shall be set from time to time by the Mayor and City Council and a current record of which shall be maintained by the City Clerk. The transfer of explosive materials to another person within the city shall require the person receiving the explosive materials to obtain a new permit. The transfer of explosive materials to a new location by the owner shall require a new permit for the new location.

('79 Code, § 7-401) Penalty, see § 91.99

Statutory reference:

Fire department and fire prevention regulations authorized, see Neb. RS 16-622

Authority to regulate combustible materials, see Neb. RS 16-627

State permits, see Neb. RS 28-1229

Permit holder records, notice, and other requirements, see Neb. RS 28-1233

§ 91.47 BLASTING PERMIT REQUIRED.

In addition to notifying the City Fire Department pursuant to Neb. RS 28-1233(3), any person desiring to discharge explosive materials, as defined in Neb. RS 28-1213, within the city shall apply for and secure a permit therefor from the City Clerk 24 hours prior to such discharge. The application for said permit shall contain all necessary information and documents required for the protection of the residents of the city. The City Clerk shall issue a permit upon approval of the application by the Police Chief and Fire Chief and payment of the permit fee as set by resolution of the Mayor and City Council. Any person securing said permit shall discharge such explosives in conformance with the conditions specified in the permit. In no case shall any person perform blasting operations unless in compliance with all state and local laws and regulations and unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol.

('79 Code, § 7-402) (Ord. 492, passed 2-6-90) Penalty, see § 91.99

Statutory reference:

Fire department and fire prevention regulations authorized, see Neb. RS 16-622

Authority to regulate combustible materials, see Neb. RS 16-627

State permits, see Neb. RS 28-1229

Permit holder records, notice, and other requirements, see Neb. RS 28-1233

§ 91.99 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 subject to a penalty of up to six months imprisonment, or a fine of not more than \$1,000, or both. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.
(‘79 Code, § 7-501)

Section

General Provisions

CHAPTER 92: HEALTH AND SANITATION

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GENERAL PROVISIONS

§ 92.01 COUNTY HEALTH BOARD.

It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the city.
(‘79 Code, § 4-104)

§ 92.02 HEALTH REGULATIONS.

For the purpose of promoting the health and safety of the residents of the city, the Board of Health

shall, from time to time, adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties and make such reports as may be necessary toward that purpose.

('79 Code, § 4-101)

Statutory reference:

Authority to regulate, see Neb. RS 16-238

§ 92.03 ENFORCEMENT OFFICIAL.

The Chief of Police, as the Quarantine Officer, shall be the chief health officer of the city. It shall be his or her duty to notify the City Council and the Board of Health of health nuisances within the city and its zoning jurisdiction.

('79 Code, § 4-102)

Statutory reference:

Quarantine officer, see Neb. RS 16-238

NUISANCES

§ 92.15 DEFINITION.

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

(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 city;

(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 tends to depreciate the value of the property of others.

('79 Code, § 4-301)

(B) *Specific definition.* 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:

(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) Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous;

(3) Filthy, littered or trash-covered cellars, houseyards, barnyards, stableyards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises;

(4) 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;

(5) 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 that 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;

(6) 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;

(7) 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 or harborage in which flies, rats, 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 thereof;

(8) Any unsafe or unsightly building, billboard or other structure, 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 either a fire hazard, a menace to the public health or safety or are so unsightly as to depreciate the value of property in the vicinity thereof;

(9) All places used or maintained as junk yards, 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;

(10) Stagnant water permitted or maintained on any lot or piece of ground. Stagnant water is defined as water which stands upon premises in such a manner, and over such a period of time, that it is likely to become a breeding place for mosquitoes;

(11) 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 city or are maintained and kept in such a manner as to be injurious to the public health; or

(12) All other things specifically designated as nuisances elsewhere in this code or applicable state law;

(13) Storage, accumulation, keeping, placing or allowing to remain of trash, garbage, scrap and wrecked, worn-out, broken or inoperative or partially destroyed or disassembled personal or real property of any kind, including any motor vehicles, tractors, trailers, machinery and equipment;

(14) Any lots or pieces of ground within the city or within the city's extraterritorial zoning jurisdiction that have (or have on adjoining streets or alleys) any growth in excess of 12 inches of weeds, grasses or other worthless vegetation or nuisance thereon, excluding city approved plantings, structures, devices or facilities for purposes of weed or erosion control, neighborhood enhancement and/or wildlife promotion or storm water quality, detention, management or control. Without limiting the foregoing provisions of this division (14), it shall be the duty of any person owning, leasing, occupying, or controlling any lot or piece of ground in the jurisdiction to prevent the growth of noxious weeds or other worthless vegetation thereon, including without limitation, cockleburrs, thistles, ragweed, burdock, and wild lettuce thereon.
(‘79 Code, § 4-301.01) (Ord. 646, passed 5-7-96; Am. Ord. 1257, passed 7-7-15; Am. Ord. 1352, passed 7-2-19)

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

Cross reference:

Stagnant waters, weeds and litter, see § 133.01

§ 92.16 MAINTAINING A NUISANCE PROHIBITED.

It shall be unlawful for any person by act or omission to erect, keep up or continue, maintain, allow or permit any nuisance within the city or within the city's extraterritorial zoning jurisdiction. ('79 Code, § 4-301.02) (Ord. 646, passed 5-7-96; Am. Ord. 1352, passed 7-2-19) Penalty, see § 92.99

§ 92.17 ABATEMENT PROCEDURE.

(A) (1) Whenever a nuisance exists as defined in this subchapter, the city may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as part of the judgement in the case. ('79 Code, § 4-502)

(B) (1) It shall be the duty of every owner or occupant of real estate in the city to keep such real estate free of public nuisances. Upon determination by the Chief Building Official, Code Enforcement Officer, or other city representative that the owner or occupant has failed to keep such real estate free of public nuisances, notice to abate and remove such nuisance shall be given to the owner or the owner's or occupant's duly authorized agent and to the occupant, if any, by personal service, first-class mail, or certified mail. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Such notice shall:

(a) Describe the condition as found by the Chief Building Official, Code Enforcement Officer, or other city representative and state that the condition has been declared a public nuisance and that the condition must be remedied. The notice shall specify the period of time within which the nuisance must be abated or removed; and

(b) Advise of the right to appeal the determination of the city and request a hearing before the Board of Health, for matters involving public health, or the City Administrator, for all other matters, and the manner in which such hearing may be requested. Any such appeal and request for hearing shall be in writing and filed with the City Clerk in the manner described in division (B)(2) below.

(2) Within five days after the receipt of the notice described in division (B)(1) above, the owner or occupant of the real estate may request a hearing with the Board of Health, for matters involving public health, or the City Administrator, for all other matters, to appeal the decision to abate or remove the nuisance by filing a written appeal with the office of the City Clerk. If the owner or occupant requests in writing a hearing, the City Administrator or his or her designee shall fix a time and place at which a hearing will be held. The hearing on the appeal shall be held within 14 days after the filing of the appeal. Notice of the hearing shall be given by personal service, first-class mail, or certified

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mail and require the owner or occupant to appear at the specified time and place to show cause why such condition should not be found to be a public nuisance and remedied. Upon the date fixed for the hearing and pursuant to the notice, Board of Health for matters involving public health, or the City Administrator (or any other appointed officer of the city designated by the City Administrator, Mayor or City Council) for all other matters, shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Chief Building Official, Code Enforcement Officer, or other proper city representative. A decision on the appeal will be rendered within five business days after the conclusion of the hearing. If after consideration of all the evidence the appeal fails, the city may have such work done to abate or remove the nuisance.

(3) If the owner or occupant of the real estate within five days after receipt of the notice described in division (B)(1) above does not request a hearing, or fails to comply with the order to abate or remove the nuisance within the required time, the city may have the work done.

(4) The costs and expenses of any work of the city to abate or remove a nuisance pursuant to this section shall be paid by the owner. Any such costs or expenses that are unpaid shall be subject to collection or assessment by the city in accordance with applicable law, including without limitation, Neb. RS 16-230 for removal or abatement of nuisances relating to drainage, weeds or litter.

(5) Unless otherwise specified by applicable law, notice for purposes of this section shall be deemed to be received upon deposit in the United States mail, postage prepaid, if by first-class mail, or upon actual receipt, if by personal service or certified mail.
(79 Code, § 4-302)

(C) Notwithstanding anything in this section or elsewhere in this code to the contrary:

(1) If the Chief Building Official, Code Enforcement Officer, or other proper city representative determines that any public nuisance constitutes an immediate danger to life, safety, health, or property, the city may remove or abate the nuisance (or cause it to be removed or abated) and assess the cost thereof to the property creating the nuisance or on which the nuisance arises, to the extent necessary or appropriate to eliminate the immediacy and/or magnitude of the danger, upon 48 hours personal or certified written notice to the owner or tenant of the subject property (or the owner's or tenant's duly authorized representative) or, in light of the immediacy or magnitude of the danger, such lesser notice that can reasonably be provided under the circumstances; and, in the event any public nuisance is within the scope of the Nebraska Statutes, including without limitation, Neb. RS 16-230 or 18-1752, the city shall proceed in accordance with the applicable provision or provisions thereof; and the city shall further have the option to proceed in accordance with any other applicable ordinance or state law, as amended from time to time, with respect to any public nuisance.

(2) Unless otherwise provided by state law, the city shall have the option to proceed under one or more applicable ordinances or state laws with respect to any public nuisance. (Am. Ord. 1274, passed 4-5-16; Am. Ord. 1352, passed 7-12-19)

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

Authority to repair and remove buildings and the like, see Neb. RS 18-1722

§ 92.18 JURISDICTION.

The Mayor and Chief of Police of the city are directed to enforce this City Code against all nuisances. The jurisdiction of the Mayor, Chief of Police and court shall extend to and the territorial application of this chapter shall include all thereof and all territory within the corporate limits of the city or within its extraterritorial zoning jurisdiction.

(‘79 Code, § 4-303) (Am. Ord. 1352, passed 7-2-19)

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

Zoning jurisdiction, see Neb. RS 16-901

§ 92.19 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. RS 19-710) (‘79 Code, § 4-304)

§ 92.20 INOPERABLE MOTOR VEHICLES.

(A) No person in charge or control of any property within the city, other than city property, whether as owner, tenant, occupant, lessee or otherwise, shall store, keep or allow to remain on such person's property or premises any inoperable, wrecked, junked, discarded or partially dismantled motor vehicle, provided that this section shall not apply to:

(1) A vehicle in an enclosed building;

(2) A vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city;

(3) A vehicle with current motor vehicle registration and current motor vehicle license plate properly displayed and undergoing repair in the manner permitted by and in compliance with any applicable city zoning regulation.

(B) Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of a misdemeanor and shall be subject to penalty and the nuisance abated as provided in this chapter or as may otherwise be authorized by law.

('79 Code, § 4-305) (Ord. 646, passed 5-7-96)

§ 92.21 DEAD OR DISEASED 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 within the corporate limits of the city or within the city's extraterritorial zoning jurisdiction.

(B) It is hereby declared a nuisance for a property owner to permit, allow or maintain any dead or diseased trees on private property within the corporate limits of the city or within the city's extraterritorial zoning jurisdiction.

(C) Upon determination by the Chief Building Official, Code Enforcement Officer, or other proper city representative that the owner or occupant has failed to keep such real estate free of nuisances, notice to abate and remove such nuisance 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. Such notice shall include the information and shall be given in the manner required by § 92.17. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five days after the receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate and remove the nuisance by filing a written appeal with the office of the City Clerk. A hearing to appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the City Administrator or any other appointed officer of the city from time to time designated by the City Administrator, Mayor or City Council. The hearing officer, based on all information presented at the hearing, shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have such work done to abate and remove the dead or diseased trees. If the owner or occupant of the lot or piece of ground within five days after receipt of such notice does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance within the required time, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. The city may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefitted as a special assessment. Unless otherwise specified by applicable law, notice for purposes of this section shall be deemed to be received upon deposit in the United States mail, postage prepaid, if by first-class mail, or

upon actual receipt, if by personal service or certified mail.

(‘79 Code, § 4-306) (Ord. 630, passed 9-5-95; Am. Ord. 1274, passed 4-5-16; Am. Ord. 1352, passed 7-2-19)

Statutory reference:

Authority to regulate and abate dead and diseased trees, see Neb. RS 16-207

Nuisances prohibited, see Neb. 28-1321

Cross reference:

Tree management, see Chapter 94

§ 92.22 WATER POLLUTION PROHIBITED.

(A) It shall be unlawful for any person, firm, or corporation to obstruct or impede without legal authority any river or collection of water or to corrupt and render unwholesome or impure any watercourse, stream or other water.

(B) The standards for water quality established or adopted by the state of Nebraska shall be presumptive evidence as to when the water is deemed to be polluted under this section.

(C) Such a corruption of the water in or about the city shall constitute a nuisance and shall be summarily abated upon written notice to the violator by the Board of Health. The abatement may be in addition to the penalty for water pollution.

(‘79 Code, § 4-401) Penalty, see § 92.99

Statutory reference:

Nuisances prohibited, see Neb. RS 28-1321

§ 92.99 PENALTY.

Unless otherwise as specified in applicable state statute or in another chapter or section of this code with respect to a particular violation, any person, firm, or entity that violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be subject to a fine in any amount not in excess of \$1,000, or imprisonment for any length of time not to exceed three months, or both, in the discretion of the court.

(‘79 Code, § 4-501)

Section

City Property

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CITY PROPERTY**§ 93.001 DEFINITIONS.**

The following definitions shall be applied throughout this chapter. When no definition is specified, the normal dictionary usage of the word shall apply:

CODE. The La Vista Municipal Code.

CORNER. The point of intersection of the lines of two street curb faces extended into the street intersection.

CURB PARKING SPACE. A length of curb equal to 20 feet where an automobile or other vehicle can park.

CURB RETURN. The portion of the curb next to a driveway approach which included the radius of curvature, or the ramp-type lug on commercial or industrial-type pavements and which connects the driveway approach to the street curb.

DRIVEWAY. A place on private property for the operation of automobiles or other vehicles.

DRIVEWAY APPROACH. An area, construction, or facility between the roadway of public streets and private property intended to provide access for vehicles from the roadway of a public street to private property. For clarification, a **DRIVEWAY APPROACH** must provide access to something definite on private property such as a parking area, a driveway, or a door at least seven feet wide, intended and used for the entrance of vehicles.

OBSTRUCTION. Any use, construction, or placement in the street right-of-way other than public infrastructure.

OCCUPANT. The person or persons actually occupying the lot, land, or real estate, whether he or she be tenant, lessee, or owner.

OUTSIDE SIDEWALK LINE. A line parallel to the property line lying along the edge of the sidewalk nearest the street, roadway, or curb; or where no sidewalk exists, a line in the street right-of-way parallel to and four feet from the property line.

OWNER. The person or persons holding the legal title of record to the lot, land, or real estate.

PERMITTED OBSTRUCTIONS. Uses permitted by § 93.002 to the extent specifically permitted.

PERSON. Any individual, corporation, partnership, joint venture, joint stock company, association, firm, company, or entity of any kind or nature.

PUBLIC INFRASTRUCTURE. Streets, sanitary sewers, storm drainage, and other items of infrastructure owned and maintained by the city for the benefit of the public.

ROADWAY. That portion of a street or highway improved, designed, or ordinarily used for vehicular travel. In the event a highway includes two or more separate roadways, the term **ROADWAY** as used herein shall refer to any such **ROADWAY** separately but not to all such **ROADWAYS** collectively.

SIDEWALK SPACE. That portion of the street right-of-way between the curb line and adjacent property line.

STREET. A public way for the purpose of vehicular and pedestrian travel in the city.

STREET RIGHT-OF-WAY. The entire right-of-way of dedicated streets of the city, including but not limited to parkings, sidewalks, and paved portions of streets.
(‘79 Code, § 8-101) (Am. Ord. 849, passed 11-20-01)

§ 93.002 STREET RIGHT-OF-WAY; PERMITTED OBSTRUCTIONS.

(A) *Obstructions prohibited.* It shall be unlawful for any person other than the city or its designee to obstruct, encumber, or encroach upon any street right-of-way, including but not limited to placing anything living or nonliving, in, on, over, across, or under the street right-of-way, or allowing it to remain, except for items of public infrastructure and those exceptions set forth in divisions (B) through (K), inclusive, of this section.

(B) *Exception; sidewalks and driveway approaches.* Paved sidewalks and driveway approaches in accordance with city specifications are permitted in the street rights-of-way.

(C) *Exception; sidewalk space; grass and appropriate substitutes.* Turf grass or an appropriate commercial grade landscaping substitute, such as decorative gravel, river rock, tree bark or mulch, bricks, or pavers, is permitted in the unpaved area of the sidewalk space. Such turf grass and appropriate substitutes must be maintained in a neat and orderly appearance. In no event shall grass be allowed to grow longer than 12 inches. Materials used in lieu of turf grass shall be of good quality, uniform and suitable for such use, taking into account the surrounding neighborhood. Gravel and river rock used generally must be three inches in diameter or less. Bricks and pavers must be installed and maintained at grade, without mortar, cement, or similar materials, and level with abutting pavement, including but not limited to curbs, sidewalks, and driveway approaches, in a manner that provides for stable footing and easy removal and access on, in, across, under, and over the street right-of-way.

(D) *Exception; sidewalk space; trees, shrubs, bushes, landscaping, and sprinkler systems; permit.*

(1) Trees, shrubs, bushes, landscaping, and lawn sprinkler systems placed in the street right-of-way after December 31, 2001 ("permit date") pursuant to a permit issued by the City Building Inspector to the owner of the lot or ground adjacent to the right-of-way are permitted. Any person desiring a permit under this division (D)(1) must submit a written application to the Building Inspector on forms provided by the city. Permits for trees, shrubs, bushes, and landscaping after the permit date shall be subject to approval of the city and only may be granted for subdivision entrances in, on, or along boulevards or street medians or to provide a buffer between zoning districts. Only official trees, shrubs, and bushes pursuant to § 94.02 may be planted in the street right-of-way. Sprinkler systems in the street right-of-way shall have all lines installed below grade, and the systems shall be installed and maintained in accordance with specifications established by the Building Inspector. Sprinkler heads in the street right-of-way shall be positioned as close to the right-of-way boundary lines as possible, but shall not be closer than two feet to any curb, nor spray on, across, or over any sidewalk, street, or pavement in the street right-of-way.

(2) Trees, shrubs, and bushes growing and sprinkler systems installed in the street rights-of-way on or before the permit date shall be allowed to remain if the owner of the lot or ground adjacent to the right-of-way files a written application for a permit, along with payment of any applicable fee, with the City Building Inspector on forms provided by the city no later than December 31, 2003, and the Building Inspector issues a permit, provided, however, that no such tree, shrub, bush, or sprinkler system shall be replaced unless the requirements of division (D)(1) above are satisfied. No fee shall be charged to obtain a permit if the application is properly completed and filed on or before December 31, 2002. For applications filed between January 1, 2003, and December 31, 2003, the required fee shall be \$100 and must be paid when the application is filed with the city.

(E) *Exception; trees, bushes, and shrubs near street right-of-way; setback requirements.* Trees, bushes, and shrubs on any lot or piece of ground adjacent to the street right-of-way are an obstruction to the extent they are so close to the right-of-way as to interfere with utilities, use of the right-of-way, or public improvements thereon. In order to prevent such obstructions, reasonable setback requirements are necessary. Accordingly, trees, bushes, and shrubs on any piece of ground or lot adjacent to the street right-of-way are permitted so long as:

(1) Trees are planted and growing no closer than two feet to the lot line adjacent to the street right-of-way, regardless of whether there is a sidewalk abutting the lot or piece of ground; and

(2) Said trees, bushes, and shrubs do not interfere with use of the street right-of-way or any public work, improvement, utility lines, or equipment on, in, over, across, or under the street right-of-way or any work thereon. On and after the permit date, only species described in § 94.02 may be planted on lots or grounds along street right-of-way with respect to any tree, bush, or shrub, any part of which is in, on, over, across, or under said right-of-way.

(F) *Exception; trees, bushes, and shrubs in or near: street right-of-way; clearance requirements.* The owner or occupant of any lot or piece of ground adjacent to any street right-of-way over which there extends the branches or limbs of any tree, bush, or shrub (regardless whether or not it is planted in the street right-of-way or adjacent lot or ground) shall at all times keep said branches and limbs trimmed to the height of at least eight feet above the surface of the sidewalk and at least 15 feet above the surface of the roadway. It shall be the duty of the owner or occupant of such premises to keep all such trees, bushes, and shrubs maintained, pruned, and trimmed at all times to comply with the requirements of this division (F), as well as divisions (D) and (E) of this section and Chapter 94 of this code.

(G) *Exception; temporary obstructions; permit.* Temporary obstruction of the street right-of-way is permitted for the erection, construction, reconstruction, wrecking, or repairing of any building or part thereof, or construction or repair of any pavement or utility within any street right-of-way, pursuant to and for the period of time allowed in a permit issued by the City Building Inspector. Any person desiring a permit under this division must submit a written application to the Building Inspector on forms provided by the city. Permits shall not be granted for more than obstruction of the sidewalk space and one-third of the roadway of the street right-of-way adjacent to the premises on which the building or pavement is to be constructed, erected, reconstructed, wrecked, or repaired or work performed. Permits shall be subject to the applicant maintaining a safe and suitable worksite and walkway within the street right-of-way, protected and lighted in the manner required by the Building Inspector. Any permit holder shall have the site, including but not limited to all excavations, work, equipment; and dangerous conditions, protected and guarded by suitable guards or barricades by day and barricades and warning lights at night; and the failure to do so shall result in the halting of work until compliance to the satisfaction of the Building Inspector and/or revocation of permit.

(H) *Exception; utilities.* Sewers, utilities, telecommunications and cable lines, and equipment in, on, across, over, or under the street right-of-way are permitted pursuant to a current permit, license, or agreement with the city.

(I) *Exception; mailboxes.* Standard mailboxes comprised of a single metal pole and box satisfying applicable standards and specifications of the United States Postal Service, as revised from time to time, are permitted in the sidewalk space. Mailboxes of other construction in the sidewalk space as of the permit date are permitted to remain so long as they are in conformity with applicable standards and specifications of the United States Postal Service, as revised from time to time, provided, however, that any such mailbox shall be replaced with a standard mailbox satisfying the requirements of the first sentence of this division (I) in the event the mailbox is removed, repaired, modified or replaced or, in the determination of the City Building Inspector, is in need of replacement or substantial modification or repair.

(J) *Exception; fences and retaining walls.* Any fence or retaining wall, or any part thereof, installed or encroaching in, on, under, over, or across the street rights-of-way on or before the permit date shall be allowed to remain, if the owner of the lot or ground adjacent to the right-of-way files a written application with the City Building Inspector (on forms provided by the city) no later than December 31,

2003, and the Building Inspector issues a permit, provided, however, that, in the event that any such fence or retaining wall is removed, repaired, modified, or replaced or is in the determination of the Building Inspector in need of replacement or substantial modification or repair, it shall be moved, removed, or relocated so that it is no longer installed or encroaching in, on, under, over, or across the street right-of-way or any part thereof.

(K) *Exception; areas zoned Mixed Use City Centre District or C-3 Highway Commercial Office Park District.* So much of the street right-of-way in areas zoned Mixed-Use City Centre District or C-3 Highway Commercial Office Park District as may be subject to such uses or improvements designated or authorized in a permit issued by the Building Inspector in connection with the following, subject to such conditions as specified in applicable laws, rules, or regulations, or in the permit or any agreement required by the Building Inspector in connection with said permit, provided, however, the proposed improvements or uses do not interfere with use by the general public of portions of the right-of-way designated in the permit, agreement, or otherwise by the Building Inspector for ordinary pedestrian purposes:

(1) Improvements or property in, on, over or beneath the street right-of-way, of occupants or an owners association of property adjacent to such street right-of-way, including without limitation, landscaping, streetscaping, street furniture, or retaining walls;

(2) Improvements or property in the air space over any street right-of-way of buildings of other improvements adjacent to the street right-of-way, including without limitation, pedestrian overpasses, awnings, balconies or signs that project over such street right-of-way; or

(3) Improvements or property in, on, over, or beneath the sidewalk space of occupants of restaurants adjacent to such sidewalk space for dining.
(79 Code, § 8-102) (Am. Ord. 849, passed 11-20-01; Am. Ord. 1294, passed 9-6-16)

Statutory reference:

Municipal authority, see Neb. RS 16-207 and 16-210

Authority to regulate and abate nuisances, see Neb. RS 18-1720

Cross-reference:

Tree management, see Chapter 94

§ 93.003 EXCEPTIONS; ADDITIONAL CONDITIONS; REMOVAL; PROCEDURE.

(A) Permitted obstructions on, in, over, under, or across the street right-of-way pursuant to § 93.002 are further subject all of the following divisions (B) through (I) of this section.

(B) Any exception listed in divisions (B) through (I) of this section shall constitute an obstruction, though permitted to the extent specified. Except for utilities described in § 93.002(H), any person who obtains a permit for, places, installs, locates, maintains, or uses any obstruction on, in, across, over,

or under said right-of-way, shall maintain it so as not to interfere with public use of the street rights-of-way, public improvements, or utilities and in accordance with all applicable provisions of the code. Further, said person shall be solely liable and responsible for all claims, losses, liabilities, costs, and expenses whatsoever, arising out of or resulting from the obstruction, including but not limited to property damage, installation, maintenance, repair, replacement, reinstallation, removal, personal injury, and death. Utilities described in § 93.002(H) shall be maintained by and be the responsibility and liability of the person placing them in the right-of-way or obtaining a permit, license, or agreement with the city. The city shall have no obligation or liability whatsoever with respect to any obstruction placed in the street right-of-way pursuant to this subchapter or its damage or removal.

(C) Any obstructions placed or allowed to continue in the street right-of-way pursuant to this subchapter shall be maintained in a neat and orderly appearance and in good repair and condition by the owner or occupant of the property fronting on that portion of the street right-of-way on which the obstruction is located. The Building Inspector is hereby authorized to include in any permit issued pursuant to this subchapter such terms and conditions as he or she determines necessary or advisable, including but not limited to specifications and/or requirements regarding maintenance, repair, and removal, so long as not in conflict with any express provision of this subchapter or other provision of the code. Notwithstanding any other provision of this subchapter to the contrary, the Building Inspector shall be authorized to revoke any permit issued under this subchapter for failure to comply with any term or condition of the permit upon ten days advance written notice to the owner of the lot or ground adjacent to the street right-of-way on which the particular obstruction is located, in which case, the obstruction shall be unpermitted, prohibited, and subject to removal under this subchapter.

(D) (1) The city retains sole, full, and absolute right and authority to regulate and use (and authorize the use of) street rights-of-way, and nothing in this subchapter or in any permit or agreement issued or entered into by the city shall constitute or be interpreted as:

(a) Creating any license, right, or interest whatsoever in any person to any street right-of-way;

(b) Abrogating or limiting the right of the city, its licensees, or designees to perform any public works or public improvements at any time;

(c) A waiver of any other applicable code, ordinance, or regulation of the city or of the city's right to require any permit thereunder;

(d) A waiver or release of any rights of the city in or to the street rights-of-way; or

(e) Limiting the city's rights or authority with respect to said street rights-of-way.

(2) Any permission granted pursuant to this subchapter to place any obstruction in any right-of-way or allow it to remain shall be subject to all other laws, ordinances, rules, and regulations of the city and may be entirely or partially revoked or revised at any time by the City Council.

(E) Any dead or diseased tree in the street right-of-way, or any obstruction that is not permitted or is in violation of this subchapter shall be deemed to be a nuisance and subject to removal. The city may at any time remove or direct the removal of any obstruction:

(1) That is deemed to be a nuisance hereunder;

(2) That in the sole determination of the city interferes with use of the street rights-of-way by the city or its designees, franchisees or licensees, creates or increases risk of death, injury, or property damage, or is damaged, deteriorated, or in disrepair; or

(3) As is necessary for the city, its designee, franchisee, or licensee to perform any public work or improvement.

(F) In addition to any other authority of the city with respect to its rights-of-way under the code, state statute, or other applicable law, the Building Inspector or his or her designee shall be authorized to remove, without any prior notice, any obstruction described in division (E) of this section and not planted or installed below grade in the street right-of-way, or in the event of an emergency or when immediate removal is required in the interests of public health, safety, or welfare. In either case, the Building Inspector or his or her designee shall be authorized to, upon 30 days advance written notice, levy and assess all or any portion of the cost and expense of the work to the persons placing the obstruction in the street right-of-way or to the property owners or occupants of the lots or pieces of ground fronting on that portion of the street right-of-way on which the work is done.

(G) In all cases other than described in division (F) of this section, notice shall be given prior to removal of an obstruction from the street right-of-way. In the case of any dead or diseased trees, notice must be given describing the nuisance, to abate and remove the trees, and of the right and manner to request a hearing. In all other cases, the notice shall describe the reason that removal is required and direct such removal. All notices shall also state that the obstruction must be removed by the owner or occupant, at his or her sole cost and expense (or at the expense of the person placing the obstruction in the right-of-way), by the specified date, and if not removed by that date, the city shall have the option to remove it or have it removed at the owner's or occupant's sole cost and expense (or at the expense of the person placing the obstruction in the right-of-way). Notices hereunder shall be given personally or by certified mail to each owner, or his or her duly authorized agent, and to the occupant, if any, of the lots or pieces of ground fronting on the portion of the street right-of-way on which the obstruction is located. In the event a property owner is not a resident of the county in which the lot or piece of ground is located, the notice shall be sent to the address listed on the tax rolls at the time the notice is first given.

(H) Removal of any obstruction pursuant to divisions (E) through (G) shall be at the sole cost and expense of the person placing the obstruction in the right-of-way, or of the property owners or occupants of the lots or pieces of ground fronting on that portion of the street right-of-way on which the work is done. If within 30 days after notice of removal in division (G) of this section is given, neither the owner nor the occupant complies with the order to abate and remove the obstruction (and in the case of dead or diseased trees, neither the owner nor the occupant requests a hearing), the City Building Inspector or his or her designee may do the work or have it done at the sole cost and expense of the persons placing the obstruction in the street right-of-way, or of the owners or occupants of the lots or pieces of ground fronting thereon. Any amount that is not paid shall be levied and assessed upon the lots or grounds specially benefitted from the work as special assessment.

(I) A permit to place, maintain, or continue any obstruction in the right-of-way pursuant to this subchapter shall only be issued to the owner of the lot or ground fronting on that portion of the street right-of-way on which the obstruction is located and shall be subject to all of the provisions of this subchapter, which provisions shall be deemed part of and incorporated into each such permit as if set forth therein and shall be enforceable against the owner and all successors in interest to the lot or ground. Except as otherwise provided in § 93.002, no fee shall be charged to obtain a permit. ('79 Code, § 8-103) (Am. Ord. 849, passed 11-20-01; Am. Ord. 1275, passed 4-5-16)

Statutory reference:

Municipal authority, see Neb. RS 16-207 and 16-210

Authority to regulate and abate nuisances, see Neb. RS 18-1720

Cross-reference:

Tree management, see Chapter 94

§ 93.004 WEEDS, GARBAGE, INOPERABLE VEHICLES.

Refer to § 133.01 of this code.

('79 Code, § 8-104) (Am. Ord. 849, passed 11-20-01)

§ 93.005 ACQUISITION OF REAL PROPERTY.

The city, when acquiring an interest in real property by purchase or eminent domain, shall do so:

(A) Only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and
(Neb. RS 18-1755)

(B) Pursuant to Neb. RS 25-2501 to 25-2506, except that the requirements of those sections shall not apply to:

(1) Water transmission and distribution pipelines and their appurtenances, and common carrier pipelines and their appurtenances; or

(2) Acquisition of property for a proposed project involving the acquisition of rights or interests in ten or fewer separately owned tracts, or when the acquisition is within the corporate limits of the city; or

(3) Municipalities which acquire property through the process of platting or subdivision or for street or highway construction or improvements.
(‘79 Code, § 8-105) (Ord. 633, passed 9-19-95; Am. Ord. 849, passed 11-20-01)

SIDEWALKS

§ 93.015 REQUIREMENT TO KEEP CLEAN.

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud or other substance to remain upon the sidewalk. All sidewalks within the Business District shall be cleaned within five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 8:30 a.m. the following day, provided that sidewalks within the residential areas of the city shall be cleaned within 24 hours after the cessation of the storm.

(‘79 Code, § 8-301) Penalty, see § 93.999

Statutory reference:

Authority to construct and repair, see Neb. RS 16-661 through 16-666

§ 93.016 NOTICE TO COMPLY.

(A) The city shall, during the month of October of each year, publish or cause to be published in one or more newspapers of general circulation within the city a general notice setting forth the requirements of this subchapter.

(B) In addition to the above general notice, notice to abate and remove such snow, sleet, mud, ice or other substances 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 five 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 comply with the order to abate or remove the snow, sleet, mud, ice or other substances the city may have such work done. 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 benefitted as special assessments; 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.

(C) At all times thereafter until new snow, sleet, mud, ice or other substances accumulate the following year, the city shall have the right, without providing further notice to such owner, agent, occupant, tenant, or person in possession, charge or control of such lot or ground, to continue removing all snow, sleet, mud, ice or other substances.

(‘79 Code, § 8-302) (Ord. 28, passed - -; Am. Ord. 1075, passed 10-7-08; Am. Ord. 1276, passed 4-5-16)

§ 93.017 BENEATH.

No person shall be allowed to keep or use the space beneath the sidewalk lying between the lot line and curb line unless a permit therefor shall have been obtained from the City Council. Before any permit shall be granted, the applicant for said permit shall submit plans and specifications of any present or proposed construction to the City Engineer. Should such plans or specifications be disapproved by the Engineer, no permit shall be granted therefor. All permits hereafter granted shall continue only upon the condition that the party receiving the same shall build, maintain and keep in repair a sidewalk over such space used or constructed to be used and pay all damages that may be sustained by any person by reason of such use or by reason of said sidewalk being defective or in a dangerous condition. As a condition precedent to the issuance or continuance of any permit for the use of any space underneath the city sidewalks as herein contemplated, the City Council may require the applicant to furnish a bond to the city as obligee for the benefit of any person or persons who may suffer any damage or damages by reason of such use. The bond shall be in such sum as the City Council, in its discretion, may designate.

(‘79 Code, § 8-303) Penalty, see § 93.999

Statutory reference:

Municipal authority, see Neb. RS 16-210

§ 93.018 MAINTENANCE.

Every owner of any lot, lots or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to the lot, lots or pieces of land, as the case may be, in good and proper repair and in a condition reasonably safe for travel for all travelers thereon. In the event that the owner or owners of any lot, lots or lands abutting on any street, avenue or part thereof shall fail to construct or repair any sidewalk in front of his, her or their lot, lots or lands within the time and in the manner as directed and required herein after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the City Council shall have power to cause any such sidewalks to be constructed or repaired and assess

the costs thereof against such property. 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. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. ('79 Code, § 8-304) Penalty, see § 93.999

§ 93.019 CITY CONSTRUCTION, RESOLUTION, PROCEDURE.

(A) Whenever the City Council may deem it necessary and expedient so to do, it may, by resolution, require a sidewalk to be constructed in front of or adjacent to any premises, along any street, avenue, or boulevard in the city. The resolution may but need not be in the following form:

“CITY OF LA VISTA

SIDEWALK RESOLUTION

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF LA VISTA:

“That it is hereby declared necessary and expedient that sidewalks be constructed and laid to the established grade, along and upon the place provided for sidewalks, upon the side of the streets, avenues, or boulevards in the City of La Vista, of such materials and width as is herein designated and adjoining the following described premises, to-wit:

(Here street address and legal descriptions)

“Such sidewalks to be constructed under the supervision of the Public Works Department of the City of La Vista (or other appropriate agency) and in accordance with Ordinance No. ___ of the City of La Vista and the plans and specifications and requirements as prepared by the City Engineer and adopted and approved by the Mayor and City Council; provided that the owner or owners of the premises herein described shall have thirty (30) days from and after the publication of notice hereof in which to lay or construct said sidewalks or to commence the laying or construction of said sidewalks as provided herein; and provided, further, that if the said owner or owners fail, neglect, or refuse to lay or construct said sidewalks or to enter upon the laying or constructing of said sidewalks as herein ordered within thirty (30) days after the last publication of such notice, and then and thereafter the City of La Vista will cause the same to be laid or constructed as herein ordered and the cost thereof will be thereafter levied and assessed by the Mayor and City Council as a special assessment against the afore-described premises.

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“Said sidewalks shall be constructed of the following materials and to the following width, to-wit:

“The City Engineer's estimate of the construction cost of said work and improvement is \$ _____ per lineal foot of sidewalk and \$ _____ in the aggregate.”

(B) The City Council may, in its discretion, before considering such resolution, request the City Clerk to notify or cause to be notified the owners or occupants of premises in front of or adjacent to which a sidewalk is to be laid, constructed, or widened of the date, time, and place such resolution will be considered so they may appear and be heard if they so desire, but the failure to give such notice shall not invalidate such proceedings or any special assessments thereafter levied for such sidewalk or improvement; provided, further, that it shall be proper for the City Council, in its discretion, by one concurrent resolution to require the construction or widening of sidewalks along and adjoining to any number of pieces of property; and that in such concurrent resolution the City Council shall name and designate but one kind of material as the material to be used in the construction of the sidewalks ordered therein.

(‘79 Code, § 8-305) (Am. Ord. 1276, passed 4-5-16)

Statutory reference:

Authority to construct and repair, see Neb. RS 16-661 through 16-666

§ 93.020 NOTICE TO PROPERTY OWNERS.

(A) Upon the passage of any resolution directing the construction of any sidewalk, it shall be the duty of the City Clerk to cause to be published once in a legal newspaper of general circulation in the city of a notice directed to the owners of the property described in said resolution, notifying such owners of the passage of said resolution and that they will have 30 days from and after the date of publication of such notice within which to construct the sidewalks so ordered or cause the same to be done, and further notifying said owners that if they fail to lay and construct said sidewalks or cause the same to be done within 30 days after publication of such notice, then and in that case the city will cause said sidewalks to be laid and constructed, the cost of which will be levied and assessed thereafter by the Mayor and City Council of the city as a special assessment against their said premises. Said notice shall also contain the City Engineer's estimate of costs of said work or improvement, and no special assessment in excess of the amount of said estimate shall be assessed against said property.

(B) In addition to the publication of notice as herein above provided, a copy of the notice so published shall be either served upon the occupant in possession of the property to be improved or shall be posted upon said premises at least 20 days prior to the commencement of construction.

(C) The notice may be substantially in the following form:

“NOTICE

To the owners of the several pieces of real estate hereinafter described:

You, and each of you, are hereby notified that on the ____ day of _____, 20__, the City Council of the City of La Vista, passed, and on the ____ day of _____, 20__, the Mayor of said City approved La Vista Sidewalk Resolution number _____, by which it has been declared and ordered necessary and expedient that sidewalks be constructed and laid to the established grade, along and upon the place provided for sidewalks adjoining the foregoing described premises, said sidewalks to be constructed under the supervision of the Public Works Department of the City of La Vista and in accordance with plans and specifications approved by the Mayor and City Council and on file with the City Clerk and to be constructed of _____ and to be _____ feet in width.

You, and each of you, are further notified that you will have 30 days from and after the date of publication of this notice in which to lay and construct said sidewalks as ordered in said resolution; and you are further notified and warned that if you fail, neglect and refuse to lay and construct said sidewalks, as in said resolution ordered, within 30 days after the date of publication of this notice, then, and in that case, the City of La Vista will cause the same to be laid, constructed or widened, as ordered in said resolution, the cost of which will be levied and assessed by the City Council of the City of La Vista, as a special assessment against your said premises.

The City Engineer's estimate for the cost of said work or improvement is \$ _____ per lineal foot of sidewalk and \$ _____ in the aggregate.”

(D) Return shall be in the following form:

“RETURN
STATE OF NEBRASKA)
COUNTY OF SARPY) SS
CITY OF LA VISTA)

I, _____ of the City of La Vista, Sarpy County, Nebraska, hereby certify that I served a copy of the within sidewalk resolution on _____ by delivering to _____, the occupant in possession of the property involved, personally, a true and correct copy of the within resolution with all the endorsements thereon (or by posting a copy of said resolution on said property) on the ____ day of _____, 20__, said day being at least 20 days prior to the date of commencement of the construction of said sidewalk improvement.

”

(E) The publisher of such legal newspaper or his or her agent shall file with the City Clerk an affidavit of the publication of the resolution as soon as the publication herein required is completed. Such publication, together with the appropriate return showing that either a copy of said resolution was served on the occupant in possession of the property involved or that there was posted a copy thereof on said premises as required by law shall be deemed good and sufficient notice to the owners of the property, resident or nonresident, in front of, abutting or adjacent to which the sidewalk is to be constructed. The affidavit of the printer or his or her agent shall be prima facie evidence of the publication herein required and shall be preserved and made a part of the records of the city. ('79 Code, § 8-306) (Ord. 60, passed - -; Am. Ord. 1276, passed 4-5-16)

§ 93.021 REPAIRING, REPLACING, WIDENING, AND RECONSTRUCTING; PROCEDURE.

Whenever the City Council shall deem it necessary that an existing sidewalk be repaired, widened, replaced or reconstructed, the same procedure shall be followed as that set forth in this subchapter for the construction of a new sidewalk. However, in the case of repairs, the City Council may prescribe a shorter period of time in which the owner must comply. ('79 Code, § 8-307) (Ord. 60, passed - -)

§ 93.022 OWNER'S DUTY, FAILURE TO COMPLY.

(A) Upon giving of the notice it shall be the duty of the owner or owners of the said property in front of, abutting on or adjacent to which the said sidewalks are ordered constructed, repaired, replaced, widened or reconstructed to cause the same to be done within the time specified in said notice and in accordance with the provisions of this subchapter.

(B) If any owner shall neglect or refuse, or shall have failed, after notice has been given as provided in this subchapter to construct, repair, replace, widen or reconstruct any sidewalk within the time limit in the notice given in such case, the city shall proceed at once to have such sidewalk constructed, repaired, replaced, widened or reconstructed as the case may be, and the expense of such work shall be assessed to such lot or piece of land and collected as provided by law. ('79 Code, § 8-308) (Ord. 60, passed - -)

§ 93.023 MATERIAL.

All sidewalks on either side of the streets and avenues of the city, in front of or along any lot or piece of land, abutting upon the same, which shall be hereafter constructed, reconstructed or replaced shall be of a concrete specified by the Mayor and City Council, the City Engineer, or Building Inspector. No person shall construct, reconstruct or replace any sidewalk of any other material within the limits of the city. That portion of a sidewalk within, or considered to be a part of the driveway may be overlaid with asphalt in compliance with city specifications established for sidewalks. All sidewalks

shall be at least four inches in depth, unless in, on, or abutting any area, tract, or lot zoned any commercial or industrial classification, in which case sidewalks shall be at least six inches in depth. ('79 Code, § 8-309) (Ord. 60, passed - -; Am. Ord. 431, passed 4-7-87) Penalty, see § 93.999

§ 93.024 SPECIFICATIONS, FEES, PERMITS.

(A) All concrete sidewalks hereafter laid, constructed, or reconstructed along any street or avenue in the city shall be four inches in depth in, on, or abutting any area, tract, or lot zoned any residential classification; shall be six inches in depth in, on, or abutting any area, tract, or lot zoned any commercial or industrial classification; and shall be built in conformity with such other specifications as may be prepared by the Mayor and City Council, the City Engineer, or the Building Inspector.

(B) Any person desiring to construct or to cause to be constructed any sidewalk on any street or avenue abutting his or her property in the city shall obtain a permit as hereinafter provided, and it shall be unlawful for any person to construct any sidewalk without first having obtained a permit. Application for the permit shall be made in writing to and filed in the office of the City Clerk. The application shall in each case be accompanied by a permit fee in an amount which shall be set from time to time by the Mayor and City Council, a current record of which shall be maintained by the City Clerk, and shall give a description of the lot or piece of land along which it is desired to construct the sidewalk. The City Clerk shall issue the permit unless good cause shall appear why the permit should be denied; provided, that if it is desired to construct a sidewalk other than at the regularly prescribed location, grade or elevation, the City Clerk shall submit the application to the Mayor and City Council, who shall determine whether the permit shall be granted or denied. When a permit is issued for the construction of a sidewalk, the Building Inspector, or other person appointed by the City Council, shall approve the location, grade and elevation of the sidewalk, and it shall be unlawful for any person to construct, or cause to be constructed, such sidewalk at any other location, grade or elevation than that so approved.

('79 Code, § 8-310) (Ord. 96, passed - -) Penalty, see § 93.999

§ 93.025 CONSTRUCTION BIDS.

Whenever the city shall construct, widen, replace, or reconstruct any sidewalk as hereinbefore provided, and the cost of the work shall in the aggregate exceed \$30,000, then the work shall be awarded pursuant to public notice and letting as provided by law.

('79 Code, § 8-311) (Ord. 60, passed - -; Am. Ord. 1280, passed 4-19-16)

Statutory reference:

City engineer; public works; prepare estimate of cost; board of public works; powers; contracts; procedure; city council; powers and duties; public emergency, see Neb. RS 16-321

Bids required, see Neb. RS 16-649

Authority to construct and repair, see Neb. RS 16-661 through 16-666

Construction and other contracts; cost estimate; sealed bids; when; exception, see Neb. RS 18-2442 et seq.

§ 93.026 IMPROPER CONSTRUCTION; WORK STOPPAGE; CHANGE.

In case any lot owner or owners of a piece of land within the city, under notice given or otherwise, constructs a sidewalk in violation of this subchapter, the Public Works Department or Building Inspector may stop the work of such construction and order the same to be made in accordance with this subchapter and the work already done to be changed, and on the failure of such owner to change any such work, the City Clerk shall forthwith change the work and the expense of the same shall be assessed and taxed to said lot and collected as provided by law.
(‘79 Code, § 8-312) (Ord. 60, passed - -)

§ 93.027 ASSESSMENTS.

(A) The City Engineer shall certify to the City Council a detailed schedule of all sidewalks laid, widened or rebuilt and the cost of same from which the City Council may be aided in determining the amount to be assessed as a special assessment against each lot or piece of ground; and the City Engineer shall certify such other facts as may be necessary to enable the City Council to make the proper special assessments. The City Engineer shall also certify to the City Council the acceptance of any sidewalks so improved or what other action is taken with reference to the sidewalk. The City Engineer shall allocate the cost of sidewalk improvements to the adjoining lots or parcels of land and prepare all necessary data for assessment sheets.

(B) Assessments as provided for in this chapter for the construction, repairing, replacing, widening or reconstruction of sidewalks shall be levied and collected pursuant to the provisions of and the manner provided for in Neb. RS 16-666, as amended, and as may otherwise be provided by law.
(‘79 Code, § 8-313) (Ord. 150, passed - -)

§ 93.028 DANGEROUS STAIRWAY.

It shall be unlawful for any person to construct or maintain any stairway, open cellar way, open basement way or open entrance thereto in or adjacent to any sidewalk, pavement or street, and any such entrance is hereby declared to be a public nuisance, provided that all existing stairways, open cellar ways, open basement ways or open entrances thereto in said sidewalks, pavements or streets may be permitted to remain from and after the passage, approval and publication of this code if said person owning or using said opening in the sidewalk or street shall satisfy the Public Works Director or City Engineer that the same is properly protected by a balustrade, or coping of durable material, and shall furnish the city with a bond in such amount as the City Council may set for the benefit of any person who might suffer an injury or damage by reason of the use of said stairway, cellar way or open basement way.

(‘79 Code, § 8-314) Penalty, see § 93.999

Statutory reference:

Municipal authority, see Neb. RS 16-207

STREETS

§ 93.040 BUILDING NUMBERING REQUIRED; SYSTEM.

All buildings situated within the city or within the zoning jurisdiction of the city shall be numbered in the manner and according to the following plan designated by this section:

(A) Streets having an east to west alignment shall be progressively numbered from east to west. The initial or starting line for numbering such buildings shall be 60th Street. Buildings situated in the first

block west of such starting line shall be assigned numbers in the 6000 series with 100 being added to the numbering series for each block west of the starting line in such a manner that the assigned number series will increase by 1200 for each mile west from the starting point.

(B) Buildings situated on streets having a north to south alignment shall be progressively numbered from north to south. The initial or starting line for the numbering of buildings situated on north to south streets shall be Harrison Street. Buildings situated in the first block south of Harrison Street shall be assigned numbers in the 6900 series with 100 being added to the number series for each block south of the starting line, in such a manner that the numbering series will increase by 1200 for each mile south from the starting point.

(C) The odd numbers shall be put on the south and east sides of the streets and the even numbers on the north and west sides of the street allowing not more than 22 feet to each number.
(‘79 Code, § 8-401) (Ord. 205, passed - -)

Statutory reference:

Municipal authority, see Neb. RS 16-614

§ 93.041 NUMBERING, SIZE, AND DISPLAY OF NUMBERS.

The figures used to number buildings shall be not less than two and one-half inches in height and of a color which renders them clearly visible against the background upon which they are displayed. Each owner or occupant of any building situated on any street shall cause to be displayed in a conspicuous place upon such building the building numbers assigned to it as provided in § 93.042 hereof. Such numbers shall be clearly visible from the street.
(‘79 Code, § 8-402) (Ord. 205, passed - -)

§ 93.042 NUMBER ASSIGNMENT, ENFORCEMENT.

It shall be the duty of the Building Inspector to assign all numbers required by this subchapter and to insure that all new buildings which may hereafter be erected, or changes in the fronts of buildings already erected, shall be assigned with numbers to which they shall be entitled under this subchapter by the owners thereof, and in all such cases, the figures shall correspond with the plan or system contained in this subchapter. In case any owner or occupant shall refuse or neglect to number or renumber his or her building, as provided for by this subchapter, after having received a written notice from the Building Inspector to do so within ten days, the Building Inspector may place or cause to be placed the proper number thereon, the cost of which shall become a lien against the property. Decisions of the Building Inspector made in the enforcement of this subchapter may be appealed to the Board of Building Appeals as provided in this code.
(‘79 Code, § 8-403) (Ord. 205, passed - -)

§ 93.043 CROSSINGS.

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

('79 Code, § 8-404)

Statutory reference:

Municipal authority, see Neb. RS 16-609

§ 93.044 WIDENING OR OPENING.

The City Council shall have the power to open or widen any street, alley or lane within the limits of the city and to create, open and improve any new street, alley or lane, provided that all damages sustained shall be ascertained in such manner as shall be provided by ordinance.

('79 Code, § 8-405) (Am. Ord. 255, passed 12-4-79)

Statutory reference:

Municipal authority, see Neb. RS 16-609

Eminent domain powers, see Neb. RS 76-704 through 76-724

§ 93.045 EXCAVATION.

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the Public Works Director or his or her designee authorizing such excavations.

('79 Code, § 8-406) Penalty, see § 93.999

Statutory reference:

Municipal authority, see Neb. RS 16-609

§ 93.046 DRIVING STAKES.

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the chief city street official.

('79 Code, § 8-407) Penalty, see § 93.999

Statutory reference:

Municipal maintenance and repair responsibility, see Neb. RS 16-610

§ 93.047 MIXING CONCRETE.

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

('79 Code, § 8-408) Penalty, see § 93.999

Statutory reference:

Municipal maintenance and repair responsibility, see Neb. RS 16-610

§ 93.048 HARMFUL LIQUIDS.

It shall be unlawful for any person to place or permit to flow, leak, or run on, onto, over, or into any street, gutter, or right-of-way any waste, gasoline, kerosene, oil, or any hazardous material as defined in this Municipal Code § 51.001.

('79 Code, § 8-409) Penalty, see § 93.999

Statutory reference:

Municipal maintenance and repair responsibility, see Neb. RS 16-610

§ 93.049 HEAVY EQUIPMENT.

It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing. Hereafter, it shall be unlawful to run, drive, move, operate or convey over or across any paved street a vehicle, machine or implement with sharp discs or sharp wheels that bear upon the pavement, with wheels having cutting edges, with wheels having lugs, any protruding parts or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent or otherwise injure or damage any pavement, gutter or curb; provided that, where heavy vehicles, structures and machines move along paved or unpaved streets, the city police are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures or machines will be permitted and allowed. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding 5/16 of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than 7/64 of an inch between November 1 and March 15, provided that school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets. It shall be permissible to use a rubber tired crane with a fixed load when such vehicle will be transported on a state highway or on any road within the corporate limits of the city, the city in which the crane is intended to be transported has authorized a one-day permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported, such vehicle is

escorted by another vehicle or vehicles assigned by the city, and such vehicle's gross weight does not exceed the limits set out in Neb. RS 60-6,294(10). It shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other condition tending to cause a vehicle to slide or skid.

('79 Code, § 8-410) Penalty, see § 93.999

Statutory reference:

Tire requirements, see Neb. RS 60-6,250

Rubber-tired cranes, see Neb. RS 60-6,288(2)(j)

§ 93.050 STANDARD TYPES OF PAVEMENT ENUMERATED AND ESTABLISHED.

(A) The standard types of pavement enumerated in this section, to the exclusion of all other types, are hereby established and adopted as the standard types of pavement for the improving of all streets and alleys in the city and areas outside the city limits within one-half mile thereof.

(B) Whenever, after the effective date of this subchapter, any street or alley in the city and areas outside the city limits within one-half mile thereof shall be improved by paving, one of the following standard types of pavement shall be used:

(1) Portland cement concrete,

(2) Asphaltic concrete surface with Portland cement concrete base when specifically approved in writing by the Mayor and City Council,

(3) Asphaltic concrete surface with flexible base when specifically approved in writing by the Mayor and City Council.

('79 Code, § 8-411) (Ord. 56, passed - -)

§ 93.051 OFFICIAL DESIGN CRITERIA AND SPECIFICATIONS, CONFORMITY REQUIRED.

The Mayor and City Council of the city shall establish design criteria and specifications governing the thickness, design and construction of all types of pavement designated in § 93.050, and when such design criteria and specifications have been adopted by resolution of the Mayor and City Council and filed with the City Clerk they shall be the official design criteria and specifications of the city and shall be incorporated into and known as the Standard Paving Specifications of the city. All paving, surfacing and resurfacing of the streets and alleys in the city and the areas outside the city limits within the zoning jurisdiction thereof shall, subsequent to the effective date of this subchapter, conform with the Standard Paving Specifications of the city.

('79 Code, § 8-412) (Ord. 56, passed - -) Penalty, see § 93.999

§ 93.052 REMOVAL OF SUBSTANDARD PAVING, COST.

The Public Works Director or his or her designee is hereby authorized and it shall be his or her duty to order the removal of or to remove any paving that does not conform to the Standard Paving Specifications of the city and which was so installed after the effective date of this subchapter. The costs of such removal shall be borne by the person, persons or corporation who installed such substandard pavement, and the city shall have the right of action in the proper court of jurisdiction to recover such costs.

('79 Code, § 8-413) (Ord. 56, passed - -)

§ 93.053 PERMIT REQUIRED FOR PAVING, REPAIRING, RESURFACING, SEALING OR RESEALING STREETS WITHIN THE CITY.

It shall be unlawful for any person, firm, corporation or other entity to pave, surface, repair, resurface, seal, or reseal any street or alley in the city and areas outside the city limits within the zoning jurisdiction thereof without a permit from the city to do so as provided in this subchapter.

('79 Code, § 8-414) Penalty, see § 93.999

§ 93.054 APPLICATION FOR PERMIT; PERMIT FEE.

(A) Before any person, firm, corporation or other entity shall enter upon any work pertaining to the paving, surfacing, repairing, resurfacing, sealing or resealing of any street or alley in the city and areas outside the city limits within the zoning jurisdiction thereof, application must be made to the City Clerk for a permit to do so. Said application shall set forth the nature of the work, the location of the work, the portion of the street right-of-way which will be affected by the work, the cost or contract price of the work, the name and address of the contractor performing the work and such other information as the City Council may by resolution from time to time require to be given.

(B) If the Clerk be satisfied that the proposed work is to be performed in accordance with the provisions of this subchapter, then he or she shall issue the permit as applied for, upon payment of the applicable fee, the amount of which shall be set from time to time by the Mayor and City Council and a current record of which shall be maintained by the City Clerk, and, in cases where the work to be performed is paving, the surety bond required by § 93.056.

(C) If the Clerk be not so satisfied, he or she shall refuse to issue such permit but shall endorse his or her refusal on the application and return it to the applicant.

(D) Should the Clerk issue such permit on the application of applicant as herein set out, the applicant accepts it as his or her own risk, and if the intended work is in fact contrary to the provisions of this subchapter or any other law, the performance of said work is nevertheless unlawful.

('79 Code, § 8-415) (Ord. 56, passed - -) Penalty, see § 93.999

§ 93.055 PERMIT ISSUANCE; APPEAL; HEARING.

Any person aggrieved by the issuance, denial or cancellation by the City Clerk of any permit herein provided for may appeal from such issuance, denial or cancellation to the City Council by filing with the Clerk a notice of appeal and payment to the Clerk of the applicable fee, the amount of which shall be set from time to time by the Mayor and City Council and a current record of which shall be maintained by the City Clerk, which fee the Clerk shall pay into the General Fund. The Clerk, at least five days prior thereto, shall notify the appealing party of the date his or her appeal is to be heard. At such hearing, the City Council will rehear the application, make such investigation and hear such witnesses as they determine necessary and grant or deny the application.
(‘79 Code, § 8-416) (Ord. 56, passed - -)

§ 93.056 PAVING SURETY BOND.

Every person, firm, corporation, or other entity who shall pave any street or alley in the city and areas outside the city limits within the zoning jurisdiction thereof shall, prior to entering upon said work, file with the City Clerk a corporate surety bond in the penal amount of the cost or contract price of said work, said bond to be conditioned upon said work being performed in accordance with the applicable provisions of the Standard Paving Specifications of the city. The city shall be a named obligee on said surety bond, which bond shall be approved as to form by the City's Legal Counsel.
(‘79 Code, § 8-417) (Ord. 56, passed - -)

§ 93.057 SURFACING DURING WINTER MONTHS PROHIBITED.

No person, firm, corporation or other entity shall pave, surface, resurface, seal or reseal any street or alley in the city and areas outside the city limits within the zoning jurisdiction thereof during the months of December, January, February and March unless the prior written consent of the Public Works Director or designee is first obtained.
(‘79 Code, § 8-418) (Ord. 56, passed - -) Penalty, see § 93.999

§ 93.058 PLACEMENT OF SNOW PROHIBITED.

(A) It shall be unlawful for any person, persons, firm, or corporation at any time to place snow or ice upon any street.

(B) It shall be unlawful for any person, persons, firm, or corporation to place snow or ice upon any sidewalk other than emergency snow removal provided by the city, county, or state.

(C) In the event any person, persons, firm, or corporation violates the provisions of division (A) of this section and the city replows the street in which such snow has been placed, such violator shall, in addition to any other penalties imposed in relation to violations of any provisions of this chapter, be responsible for the cost of such second plowing. The city shall send a written statement to such violator showing the amount due to the city, and such amount shall be payable within 15 days after the date it is mailed by the city and, if not paid within such period, shall accrue interest at the highest rate allowable. ('79 Code, § 8-419) (Am. Ord. 427, passed 11-14-86) Penalty, see § 93.999

§ 93.059 DRIVEWAY APPROACHES.

(A) The city may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure, including pavement or sidewalks.

(B) The City Clerk shall give the property owner notice by registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the city may cause such work to be done and assess the cost upon the property served by such approach. (Neb. RS 18-1748) ('79 Code, § 8-420) (Ord. 377, passed 1-15-85)

CURBS AND GUTTERS

§ 93.070 PERMIT REQUIRED.

It shall be unlawful for any person to cut, deface, break out or remove any curbing of any street or to construct any driveway approach within the zoning jurisdiction without first having obtained the permit provided for in § 93.071. Further, any such activity except that authorized by said permit shall also be unlawful. ('79 Code, § 8-501) (Ord. 50, passed - -) Penalty, see § 93.999

§ 93.071 PERMIT APPLICATION; FEE.

(A) *Application and fees.* For the purpose of ingress and egress into and from private property, permits may be granted by the Building Inspector (or such other person designated by the City Council)

for the cutting of the necessary curbing and the construction of the driveway approach. Any person desiring such permit shall first make written application at the office of the City Clerk, which application shall contain a statement of the exact location of the proposed driveway approach, together with a statement of the length of curb to be cut, of the width of the driveway approach at the edge of the roadway if there is no curb and such other pertinent information as may be required by the City Council. Prior to the issuance of each permit, the applicant shall pay the applicable fee per lineal foot of driveway approach measured at the edge of the roadway. The applicable fee will be greater in the event that at the time of improvement of the roadway a curb was constructed with the necessary curb cut. Fees shall be set from time to time by the Mayor and City Council, and a current record of applicable fees shall be maintained by the City Clerk,

(B) *Conformity requirements.* Any person receiving a permit pursuant to this section shall perform and conduct the work permitted under and in conformity with the rules, regulations, design criteria and specifications set by the City Council. All driveway approaches shall be constructed in conformity with the sidewalk grade and elevation as established by the City Engineer.

(C) *Expiration of permits.* Any person receiving a permit pursuant to this section shall proceed, at his or her own expense, to do the work authorized by such permit. If the authorized work is not completed within 60 days of the date the permit is issued, such permit shall expire and become void at the expiration of the 60 day period. Before such work can be resumed, a new permit shall be obtained in the same manner and form as the original permit.

(D) *Extension.* If the Building Inspector (or such other person designated by the City Council) has granted a written extension of the effective duration of a permit, the permit shall not expire and become void pursuant to division (C) of this section, but shall remain in full force and effect throughout the period of extension. Such permit shall, however, expire on the last day of such extension, and no work shall be completed or resumed thereafter without first obtaining a new permit in the same manner and form as the original permit.

(E) *City Curb Milling and Pavement Cutting Program agreements.* In lieu of obtaining a permit and performing curb cutting in accordance with divisions (A) through (D) above, any resident or business and the city may enter into an agreement under the city's Curb Milling and Pavement Cutting Program to have the city provide curb milling and pavement cuts. Any such agreement shall be subject to payment of the applicable fee to the city for such services, which shall be due upon application for building permit. Fees shall be set from time to time by the Mayor and City Council, and a current record of applicable fees shall be maintained by the City Clerk.
(‘79 Code, § 8-502) (Ord. 73, passed - -; Am. Ord. 413, passed 5-20-86)

§ 93.072 RIGHT TO DENY PERMIT.

The application for a permit under this subchapter shall not be construed to vest any rights thereto in the applicant or limit the right of the city, through its Council, to deny the permit applied for when the issue of such a permit would create a traffic hazard, endanger public safety or would not be beneficial to public welfare. The City Clerk shall refuse permits to persons who fail or refuse to obey reasonable rules and regulations necessary in the enforcement of this subchapter. ('79 Code, § 8-503) (Ord. 50, passed - -)

§ 93.073 SPECIAL PERMIT DURING WINTER MONTHS.

No curb, gutter or driveway approach across or through any curb or sidewalk shall be laid during the months of December, January, February or March without the person constructing the same first receiving a special permit from the Building Inspector (or such other person designated by the City Council). ('79 Code, § 8-504) (Ord. 50, passed - -; Am. Ord. 413, passed 5-20-86) Penalty, see § 93.999

§ 93.074 INSPECTION, NOTICE, CORRECTIONS.

(A) *Requests for inspections.* Every person constructing public curbs, gutters or driveway approaches shall notify the Building Inspector or the Public Works Director, or designee of either of them, when the work is ready for inspections at the following times during the construction process:

(1) Not less than one working day prior to the time that the removal of the existing curb and gutter and the setting of forms for the proposed driveway approach have been completed. The first inspection must be made prior to the pouring of any concrete.

(2) Not more than two working days after the concrete has been poured.

(B) *Acceptance or nonacceptance.* Acceptance of the work will not be made until after the inspection provided for in subsection (A)(2) has been completed. If upon investigation and inspection it is determined that the curb, gutter or driveway approach is not according to the city approved specifications provided for in the construction of such curb, gutter or driveway approach, the Building Inspector or the Public Works Director, or designee of either of them, may refuse to accept and approve the work and require that any errors in the construction be corrected at once and before the acceptance of the work.

(C) *Cure of errors.* In the event such errors in construction are not corrected within ten days of notice of nonacceptance by the Building Inspector or the Public Works Director, or designee of either of them, such notice to be mailed to the address shown in the application for the permit and to specify

the reasons for nonacceptance; the City Council may order such work corrected or removed and the city may recover the cost thereof in a civil action against the person to whom the permit was issued or may levy a special assessment equal to such cost against the property abutting the area of the curb cut or driveway approach.

(‘79 Code, § 8-505) (Ord. 50, passed - -; Am. Ord. 413, passed 5-20-86)

§ 93.075 DUTY OF INSPECTOR.

For the purpose of making the inspections provided for in this subchapter, the Building Inspector shall make the inspection of curbs and gutters and private driveways as provided for in this subchapter, which inspections shall be made according to the rules and regulations, design criteria and specifications furnished by the city.

(‘79 Code, § 8-506) (Ord. 50, passed - -; Am. Ord. 413, passed 5-20-86)

§ 93.076 PARKING ONLY APPROACHES PROHIBITED.

It shall be unlawful for any person to construct, alter or extend, or permit or cause to be constructed, altered or extended, any driveway approach which can be used only as a parking space or area between the curb and private property.

(‘79 Code, § 8-507) (Ord. 50, passed - -) Penalty, see § 93.999

§ 93.077 MAXIMUM AND MINIMUM WIDTHS, SPECIFICATIONS; REQUIREMENTS, PROHIBITIONS.

(A) No driveway approach shall exceed 40 feet in width as measured along the outside sidewalk line.

(B) Notwithstanding the provisions of division (A) of this section, no driveway approach on any major street or main thoroughfare in the city shall exceed 24 feet measured at the outside sidewalk line if it will normally be used in such a manner that vehicles can only back out of or into the driveway in order to use it. For drives wider than 24 feet, a separate exit and entrance drive or a means of turning the vehicle around on private property must be provided.

(C) For the purpose of constructing a driveway approach, no curb or opening or section broken out shall exceed 52 feet. If the roadway has no curb, the maximum width of the driveway approach at the edge of the roadway shall not exceed 52 feet.

(D) For the purpose of constructing a new driveway approach, no curb cut, opening or section broken out or removed shall be less than 18 feet. Where there is no curb, the width of the driveway approach at the edge of the road way shall not be less than 18 feet.

(E) No portion of a driveway approach, except the curb return, shall be constructed within 18 feet of a corner and in no case closer than two feet to the property line extended without written permission from the Public Works Director, his or her designee, or the Building Inspector.

(F) Where more than one driveway approach on a street front serves a single parcel of land, there shall be at least one curb parking space between driveway approaches.

(G) Where the Building Inspector determines that a drainage culvert is needed under a driveway approach, any person constructing such a driveway approach shall install a drainage culvert meeting the dimensions and specifications specified by the City Council and City Engineer or Building Inspector.

(H) Where the Building Inspector determines that the construction of a driveway will affect the flow of water into a drainage inlet, any person constructing a driveway approach shall reconstruct the drainage inlet to the specifications and dimensions specified by the City Council and City Engineer or Building Inspector.

(I) No driveway approach shall interfere with city facilities such as street lighting poles, traffic signal standards, signs, catch basins, hydrants, crosswalks, bus loading platforms, utility poles, fire alarm supports, underground pipes or ducts or other necessary street structures.

(J) It shall be unlawful to bridge any curb or fill any gutter of any street.

(K) For the purpose of constructing a new driveway or when removing curbing for any reason, all openings shall be made by the use of curb cuts rather than breaking or chiseling out the curbing. The minimum driveway construction details shall be as follows:

(1) The driveway approach shall consist of not less than six inches in thickness of FL60 air-entrained, Portland cement, concrete pavement. The curb and gutter section shall be constructed to not less than the thickness of the existing roadway pavement.

(2) Where curb and gutter is removed to allow construction of a new driveway approach or reconstruction of an existing driveway approach, the minimum width of removal shall be two feet as measured from the back of the curb to the sawcut removal line. Whenever a longitudinal or transverse joint in the existing roadway pavement lies less than four feet from the proposed removal limits, then the removal shall extend to such existing joints. Sawcuts in existing pavements shall be made to not less than one half of the existing roadway pavement thickness.

(3) Where the existing roadway pavement contains an asphaltic concrete pavement overlay, the overlay shall be removed to at least six inches beyond the pavement removal limits. The asphaltic concrete overlay shall be replaced by the Public Works Director to the extent that is existed previously with a mixture type and tack coat approved by the Building Inspector.

(4) The driveway approach shall be constructed with grades such that drainage in the gutter continues to flow down the gutter line. The approach shall slope upward from the gutter so that the approach elevation is equal to or above the existing top of curb elevation at the sidewalk edge nearest the roadway. The driveway approach shall contain curbs between the existing roadway curbs and the sidewalk edge nearest the roadway to prevent storm runoff from running behind the roadway curbs. It may be necessary to remove and replace existing sidewalk adjacent to the driveway approach to achieve such grades. Where existing grades make compliance with the above requirements impractical, the Building Inspector may allow deviations and will issue instructions on an alternative configuration.

(5) The driveway approach shall contain a thickened edge to match the thickness of the existing roadway pavement.

(6) The construction details and the above requirements are illustrated in the "Standard Driveway Approach Details" on file with the City Clerk, a copy of which may be obtained from the Building Inspector.

('79 Code, § 8-508) (Ord. 50, passed - -; Am. Ord. 413, passed 5-20-86)

§ 93.078 PERMIT REFUSAL AND CANCELLATION.

The Building Inspector shall refuse any further permits to any person to build curbs, gutters and private driveways until errors in construction in previous work have been corrected or adjusted. The Building Inspector may also cancel any permit at any time when the continuation of the right under the permit constitutes a traffic hazard or any condition not beneficial to the public welfare. When any such permit for the cutting of a curb or constructing a driveway approach has been canceled, surrendered or terminated, the permit holder or the owner, at the time of the cancellation, surrender or termination of the permit, of the property abutting the area of the curb cut or driveway approach, shall be responsible for the cost necessary to replace the curb and the costs necessary to restore the sidewalk to the level of the top of the restored curbing. This obligation shall be a condition upon which permits shall be issued. ('79 Code, § 8-509) (Ord. 50, passed - -)

§ 93.079 VARIANCES; STANDARDS GOVERNING.

The City Council is hereby authorized to grant in writing variances from the provisions of this subchapter; provided, that they first determine if the following conditions are present:

(A) The exception of variance desired arises from peculiar physical conditions not ordinarily existing in similar districts in the city or is due to the nature of the business or operation on the abutting property.

(B) The exception or variance desired is not against the public interest, particularly safety, convenience and general welfare.

(C) The granting of the permit for the exception or variance will not adversely affect the right of adjacent property owners or tenants.

(D) The strict application of the terms of this subchapter will work unnecessary hardship on the property owner or tenant.
(‘79 Code, § 8-510)

§ 93.080 APPEAL; HEARING.

Any person aggrieved by the issuance, denial or cancellation by the Building Inspector of any permit herein provided for may appeal from such issuance, denial or cancellation to the City Council by filing with the Clerk a notice of appeal and payment to the Clerk the applicable fee, the amount of which shall be set from time to time by the Mayor and City Council and a current record of which shall be maintained by the City Clerk, which fee the Clerk shall pay to the General Fund. The Clerk, at least five days prior thereto, shall notify the appealing party of the date his or her appeal is to be heard. At such hearing, the City Council will rehear the application, make such investigation and hear such witnesses as they determine necessary and grant or deny the application.
(‘79 Code, § 8-511) (Ord. 50, passed - -)

§ 93.081 EFFECT OF GRANTING PERMIT.

The issuance or granting of a permit shall not be deemed or construed to authorize any construction or improvement not in conformity with any provision of this subchapter.
(‘79 Code, § 8-513) (Ord. 50, passed - -)

§ 93.999 PENALTY.

Unless otherwise specified in applicable state statute or in another chapter or section of this code with respect to a particular violation, any person, firm, or entity that violates any of the provisions of this chapter, including but not limited to any neglect or refusal to comply therewith or opposition to the enforcement thereof, shall be guilty of a misdemeanor and shall upon conviction thereof be subject to a fine in any amount not in excess of \$500, or imprisonment for any length of time not to exceed three months, or both, in the discretion of the court, provided, however, that the penalty for violating any of the terms or provisions of §§ 93.070 et seq. shall upon conviction thereof be a fine in any amount not in excess of \$500 in the discretion of the court. Every day on which a violation continues shall be deemed a separate violation hereunder.
(‘79 Code, §§ 8-512 and 8-701) (Ord. 50, passed - -; Am. Ord. 426, passed 11-3-86)

Section

- 94.01 Definitions
- 94.02 Tree, bush, and shrub
- 94.03 Distance from utility lines
- 94.04 Care and removal
- 94.05 Tree topping
- 94.06 Obstruction, pruning, removal
- 94.07 Dead or diseased trees
- 94.08 Removal of stumps
- 94.09 Assessment for costs of pruning or removal
- 94.10 Abuse or mutilation
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- 94.13 Arborists license and bond
- 94.14 One and four year tree plan
- 94.15 Limited in power to incur liability
- 94.16 Annual report

- 94.99 Penalty

§ 94.01 DEFINITIONS.

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

BOARD. The La Vista Park and Recreation Advisory Board.

PARK TREES. Trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the city, or to which the public has free access, except within the street right-of-way.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation on land within the street right-of-way.

('79 Code, § 8-601)

Cross reference:

Parks, see §§ 90.01 et seq.

§ 94.02 TREE, BUSH, AND SHRUB SPECIES TO BE PLANTED.

The city shall maintain a list of tree, bush, and shrub species, listed by common name, constituting the official tree, bush, and shrub species for the city. This listing of trees, bushes, and shrubs shall be maintained at city hall. This official list will be updated on a regular basis and approved by the City Council with recommendation from the Park and Recreation Advisory Committee. Except as otherwise permitted pursuant to § 93.002, only species approved as street trees, bushes, and shrubs may be planted within the street right-of-way, or along the street right-of-way if branches are to extend into said right-of-way. See §§ 93.002 and 93.003 for other related requirements. Only those species approved as park trees shall be planted in public parks and other areas owned by the city to which the public has free access.

('79 Code, § 8-602) (Am. Ord. 640, passed 12-19-95; Am. Ord. 850, passed 11-20-01) Penalty, see § 94.99

§ 94.03 DISTANCE FROM UTILITY LINES.

No street or park trees, except for those expressly approved by the Committee for such purposes, and those for which a permit has been issued by the city pursuant to § 93.002(D), may be planted under or within ten lateral feet of any overhead utility wire or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility line, wire, or main. No street tree shall be planted within ten feet of any fire hydrant, except for any street tree for which a permit was issued by the city pursuant to § 93.002(D).

('79 Code, § 8-603) Am. Ord. 850, passed 11-20-01) Penalty, see § 94.99

§ 94.04 CARE AND REMOVAL.

(A) The city shall have the right but not the obligation to plant, prune, maintain and remove all street trees and shall have the exclusive right to plant, prune, maintain and remove park trees as may, in its judgment, be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of the street right-of-way.

(B) The city may but shall not have the obligation to remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with an injurious fungus, insect or other pest.

('79 Code, § 8-604)

§ 94.05 TREE TOPPING.

It shall be unlawful for any person, firm, or entity, other than the City's Public Works Department, to top, prune or in any way cut or damage a park tree, and no person, firm, or entity, other than the City's Public Works Department, shall top any street tree, park tree or other tree on public property without first obtaining a permit from the city to do so. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Topping of street trees severely damaged by storms or other causes and topping of street trees necessary to prevent growth interfering with or obstructing utility wires are exempt from this provision.
 ('79 Code, § 8-605) Penalty, see § 94.99

§ 94.06 OBSTRUCTION, PRUNING, REMOVAL.

(A) All trees, shrubs and bushes within the city shall be pruned or caused to be pruned by the owner or occupant when such trees or shrubs obstruct the light from any street lamp, obstruct the visibility of any traffic control device or sign, obstruct the passage of pedestrians on sidewalks or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging branches or limbs should be 15 feet above all streets and eight feet above sidewalks.

(B) All shrubs and hedges defined as street trees in § 94.01 shall be kept trimmed by the abutting property owner at least two feet back from all curbs, sidewalks, driveways or alleys; and the same shall at all times be kept trimmed to a height not greater than 30 inches above the top of the curb, unless the city shall have, upon written application of the owner or occupant, determined that a greater height would not constitute a hazard to pedestrians or vehicular traffic.
 ('79 Code, § 8-606) Penalty, see § 94.99

§ 94.07 DEAD OR DISEASED TREES.

All trees and shrubs within the city shall be pruned or removed when such trees or shrubs constitute a hazard to life and property or harbor insects or disease which constitute a threat to other trees or shrubs within the city.
 ('79 Code, § 8-607) Penalty, see § 94.99

Cross reference:

Dead or diseased trees, § 92.21

§ 94.08 REMOVAL OF STUMPS.

All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
(‘79 Code, § 8-608) Penalty, see § 94.99

§ 94.09 ASSESSMENT FOR COSTS OF PRUNING OR REMOVAL.

Should the city prune or remove any tree that is in violation of this subchapter, the city may collect the cost of such work from the owner or occupant of the private property upon which the offending tree is situated or which abuts on the street right-of-way upon which it is situated, in the manner provided by provided by §§ 93.002 and 93.003 of this code.
(‘79 Code, § 8-609) (Am. Ord. 850, passed 11-20-01)

§ 94.10 ABUSE OR MUTILATION.

Unless specifically authorized by the city, no person shall intentionally damage, cut, carve, transplant or remove any street tree or park tree; attach any rope, wire, nails, advertising posters or other contrivance to such trees; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of such trees. The preceding restrictions do not apply to proper planting, staking and guying practices or to the topping of street trees under the circumstances authorized by § 94.05.
(‘79 Code, § 8-610) Penalty, see § 94.99

§ 94.11 PROTECTION OF TREES.

(A) All street trees or park trees near any excavation or construction of any building, structure or street work shall be guarded with a substantial fence, frame or box not less than four feet high and eight feet square, and all construction materials, soil or other debris shall be kept outside the barrier. This shall be the responsibility of the persons or firms doing the construction work.

(B) No person shall excavate any ditches, tunnels, trenches or lay any drive within ten feet of any street or park tree without first obtaining written permission from the city.

(C) No person shall deposit, place, store or maintain upon any public property of the city any stone, brick, sand, soil, concrete or other material which may impede the free passage of water, air and fertilizer to the roots of any street tree or park tree, except by written permission of the city.
(‘79 Code, § 8-611) Penalty, see § 94.99

§ 94.12 WORK ORDERED OR DONE BY CITY.

Written permission shall not be required for any tree, shrub or hedge planting, pruning, spraying or removing ordered or done by the city; however, all such work shall be done in conformance with the requirements of §§ 94.01 and 94.02 of this chapter.
(‘79 Code, § 8-612) Penalty, see § 94.99

§ 94.13 ARBORISTS LICENSE AND BOND.

(A) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first providing the city with evidence of possession of adequate liability insurance for bodily injury and property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(B) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a license. No license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors.
(‘79 Code, § 8-613) Penalty, see § 94.99

§ 94.14 ONE AND FOUR YEAR TREE PLAN.

In addition to the duties and responsibilities conferred upon the Board, it shall be the further duty and responsibility of the Board to develop and present to the Mayor and City Council, each year, no later than June 1 of each year, a One- and Four-Year Tree Plan recommending the location of new or replacement trees to be planted within the city limits. The City Council may approve said One- and Four-Year Tree Plan, modify same or reject same in whole or in part as the City Council may deem in the best interest of the city.
(‘79 Code, § 8-614)

§ 94.15 LIMITED IN POWER TO INCUR LIABILITY.

Neither the Board nor any member thereof shall incur any financial liability in the name of the city.
(‘79 Code, § 8-615)

§ 94.16 ANNUAL REPORT.

The Board shall render annually, by June 1 of each year, a full report of its work to the Mayor and City Council.
(‘79 Code, § 8-616)

§ 94.99 PENALTY.

Unless otherwise specified in applicable state statute or in another chapter or section of this code with respect to a particular violation, any person, firm, or entity that violates any of the provisions of this chapter, including but not limited to any neglect or refusal to comply therewith or opposition to the enforcement thereof, shall be guilty of a misdemeanor and shall upon conviction thereof be subject to a fine in any amount not in excess of \$500, or imprisonment for any length of time not to exceed three months, or both, in the discretion of the court.

('79 Code, § 8-701) (Am. Ord. 426, passed 11-3-86)

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GENERAL PROVISIONS**§ 95.01 RUNNING AT LARGE.**

(A) *General.* It shall be unlawful for the owner, keeper or harbinger of any animal, or any person having the charge, custody or control thereof, to permit a horse, mule, cow, sheep, goat, swine or other animal to be driven or run at large on any of the public ways and property, upon the property of another or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way.

('79 Code, § 6-201)

(B) *Fowl.* It shall be unlawful for any person to allow poultry, chickens, turkeys, geese or any other fowls to run at large within the corporate limits.

('79 Code, § 6-203)

(C) *Dogs, cats and rabbits.*

(1) For the purposes of this chapter "running at large" shall mean:

(a) Any dog or cat found off the premises of the owner and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint; and

(b) Any rabbit found off the premises of the owner and not confined in a fenced yard or separate enclosure.

('79 Code, § 6-121)

(2) It shall be the duty of every owner or harbinger of any dog, cat or rabbit to prevent such animal from running at large within the corporate limits of the city. No owner or harbinger of any dog, cat or rabbit shall fail to exercise the proper care and control of any such animal to prevent it from running at large, by way of a chain, fence or other physical means. Evidence that such dog, cat or rabbit was found at liberty off the premises of its owner or harbinger shall be prima facie proof of the violation

of this section by the owner or harbinger. It shall be the duty of the city police or authorized animal control subcontractor of the city to cause any dog, cat, or domesticated rabbit found to be running at large within the city to be taken up and impounded.

('79 Code, § 6-111) (Ord. 283, passed 4-11-81; Am. Ord. 283, passed 9-1-81; Am. Ord. 312, passed 7-20-82) Penalty, see § 95.99

Statutory reference:

General authority, see Neb. RS 16-235 and 16-240

§ 95.02 ENCLOSURES.

All pens, cages, sheds, yards or any other area or enclosure for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located. ('79 Code, § 6-202) Penalty, see § 95.99

§ 95.03 CARE OF ANIMALS.

The following guidelines shall apply in reference to animal care:

(A) No owner shall fail to provide his or her animals with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shelter space and protection from the weather, veterinary care when needed to prevent suffering and humane care and treatment.

(B) No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.

(C) No owner of an animal shall abandon such animal.

(D) No person shall give away any live animal, fish, reptile or bird as a prize for or as an inducement to enter any contest, game or other competition, as an inducement to enter a place of amusement or as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(E) Any person who, as the operator of a motor vehicle, strikes an animal shall stop at once and render such assistance as may be possible and appropriate. Said person shall immediately report such injury or death to the animal's owner if appropriate and shall at once report the accident to the appropriate law enforcement agency or to the local humane society.

(F) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to expose on his or her own property common rat poison mixed only with vegetable substance. ('79 Code, § 6-204) (Ord. 439, passed 5-19-87) Penalty, see § 95.99

§ 95.04 KEEPING OF WILD ANIMALS.

(A) *Wild animals, definition.* Wild animals shall be defined as any living member of the animal kingdom, including those born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents and captive-bred species of common cage birds.

(B) *Wild animals, keeping of.* It shall be unlawful for any person to own, possess or have custody on his or her premises any wild or vicious animal for display, training or exhibition purposes, whether gratuitously or for a fee, unless permission from the city is granted otherwise. It shall be unlawful for any person to keep or permit to be kept any wild animal as a pet. The city or the city's designated animal control provider shall have the power to release or order the release of any wild animal kept in violation of this chapter.
(‘79 Code, § 6-205) (Ord. 438, passed 6-16-87) Penalty, see § 95.99

§ 95.05 PITTING ANIMALS; DEFINITIONS; PROHIBITIONS.

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

BEARBAITING. The pitting of any animal against a bear.

COCKFIGHTING. The pitting of a fowl against another fowl.

DOGFIGHTING. The pitting of a dog against another dog.

PITTING. Bringing animals together in combat.
(Neb. RS 28-1004)

(B) (1) No person shall knowingly:

(a) Promote, engage in or be employed at dogfighting, cockfighting, bearbaiting or pitting an animal against another;

(b) Receive money for the admission of another person to a place kept for such purpose;

(c) Own, use, train, sell or possess an animal for such purpose;

(d) Permit any act as described in this division (B)(1) to occur on any premises owned or controlled by him or her.

(2) No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting or the pitting of an animal against another as prohibited in division (B)(1) of this section.

(3) Any person who violates division (B)(1) or (B)(2) shall be guilty of a Class IIIA felony and the sentencing court shall make such orders and have such authority as provided by state law. Neb. RS 28-1005, Neb. RS 28-1019 ('79 Code, § 6-206)

(C) (1) No person shall knowingly or intentionally own or possess animal fighting paraphernalia with the intent to commit a violation of this section.

(2) (a) For purposes of this section, except as provided in division (C)(2)(b) of this section, **ANIMAL FIGHTING PARAPHERNALIA** means equipment, products, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning or furtherance of the pitting of an animal against another as defined in division (A) of this section. **ANIMAL FIGHTING PARAPHERNALIA** includes, but is not limited to, the following:

1. A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;
2. A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;
3. A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing place;
4. A fighting pit, which means a walled area designed to contain an animal fight;
5. A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;
6. A heel, which means any edged or pointed instrument designed to be attached to the leg of a fowl;

7. A boxing glove or muff, which means a fitted protective covering for the spurs of a fowl; and
8. Any other instrument commonly used in the furtherance of pitting an animal against another.

(b) ***ANIMAL FIGHTING PARAPHERNALIA*** does not include equipment, products, or materials of any kind used by a veterinarian licensed to practice veterinary medicine and surgery in this state.

(3) Any person violating division (C)(1) of this section is guilty of a Class I misdemeanor and the sentencing court shall make such orders and have such authority as provided by state law. (Neb. RS 28-1005.01, Neb. RS 28-2019) (Am. Ord. 1143, passed 5-3-11; Am. Ord. 1277, passed 4-5-16) Penalty, see § 95.99

§ 95.06 LICENSE TAGS.

Upon the payment of the license fee, the City Clerk or his or her designee shall issue to the owner of a dog or cat a numbered receipt and durable tag for each dog or cat so licensed. The durable tag shall be properly attached to the collar or harness of all dogs or cats so licensed and shall entitle the owner to keep or harbor the said dog or cat until the thirty-first day of December following such licensing. Alternatively, the city may recognize a microchip identification number as the license number, and the microchip shall substitute for the physical tag. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the City Clerk or his or her designee 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 or new tag so issued. All license fees and collections shall be immediately credited to the General Fund upon receipt by the city. License fees and replacement tag fees shall be in such amounts as set from time to time by the Mayor and City Council, and a current record of applicable fees shall be maintained by the City Clerk. ('79 Code, § 6-107) (Am. Ord. 348, passed 9-6-83; Am. Ord. 876, passed 11-5-02; Am. Ord. 1011, passed 10-3-06)

§ 95.07 REMOVAL OF TAGS.

It shall be unlawful for any person to remove or cause to be removed the collar, harness or metallic tag from any licensed dog or cat without the consent of the owner, keeper or possessor thereof. ('79 Code, § 6-118) Penalty, see § 95.99

§ 95.08 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 or other city identification than that issued by the City Clerk or his or her designee for dogs or cats.

('79 Code, § 6-108) Penalty, see § 95.99

Statutory reference:

Municipal authority, see Neb. RS 16-206

§ 95.09 OWNER DEFINED.

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

('79 Code, § 6-109) (Am. Ord. 283, passed 4-7-81)

Statutory reference:

Similar provisions, see Neb. RS 65-606

Rabies, see Neb. RS 71-4401 et seq.

§ 95.10 PROCLAMATION.

It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid dogs, cats or rabbits is great or imminent, to issue a proclamation ordering all persons owning, keeping or harboring any dog, cat or rabbit to muzzle the same or to confine it for a period of not more than 90 days from the date of such proclamation or until such danger is passed. The dogs, cats or rabbits may be harbored by any good and sufficient means in a house, garage or yard on the premises wherein the said owner may reside. Upon issuing the proclamation, it shall be the duty of all persons owning, keeping or harboring any dog, cat or rabbit to confine the same as herein provided.

('79 Code, § 6-110) (Am. Ord. 283, passed 4-7-81)

§ 95.11 MAXIMUM NUMBER ALLOWED.

It shall be unlawful for any person to own, keep or harbor at any time more than three adult dogs or three adult cats per residential or dwelling unit in the city. The total number of adult dogs and adult cats per residential or dwelling unit in the city shall not exceed four adult animals. For the purpose of this section, an adult dog or cat is a dog or cat that is more than four months old. Provisions of this section shall not apply to catteries, kennels, and pet stores which have been licensed pursuant to § 95.17.

('79 Code, § 6-112) (Ord. 212, passed - -; Am. Ord. 283, passed 4-11-81; Am. Ord. 283, passed 9-1-81; Am. Ord. 296, passed 2-2-82; Am. Ord. 1194, passed 7-2-13) Penalty, see § 95.99

§ 95.12 CAPTURE IMPOSSIBLE.

The city police shall have the authority to kill any animals showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved. (Neb. RS 54-605) ('79 Code, § 6-113)

§ 95.13 DANGEROUS AND POTENTIALLY DANGEROUS DOMESTIC ANIMALS; DEFINITIONS.

(A) It shall be unlawful for any person to keep or harbor a dangerous domestic animal or a potentially dangerous domestic animal, except as otherwise provided in this chapter.

(B) For purposes of this chapter, ***DANGEROUS DOMESTIC ANIMAL*** means any domestic animal that:

- (1) Has killed a human being;
- (2) Has inflicted injury on a human being that requires medical treatment;
- (3) Has killed or inflicted serious injury on a domestic animal without provocation;

(4) Ferociously and without provocation has attacked, snapped at, or bitten one or more human beings, or one or more other domestic animals, one or more times, or has a history of any of such behaviors;

(5) Has been previously determined to be a potentially dangerous domestic animal by the animal control authority of the city, the owner of which has received notice from the animal control authority of the city of such determination, and that inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals;

(6) Is owned or harbored primarily or in part for the purpose of animal fighting; or

(7) By training, disposition, or behavior poses a potential risk of attacking and inflicting injury without provocation upon human beings or other domestic animals.

(C) For purposes of this chapter, ***POTENTIALLY DANGEROUS DOMESTIC ANIMAL*** means:

(1) Any domestic animal that, when unprovoked, inflicts an injury on a human being that does not require medical treatment, either on public or private property;

(2) Any domestic animal that, when unprovoked, injures a domestic animal, either on public or private property;

(3) Any domestic animal that, when unprovoked, chases or approaches a person who is upon a street, sidewalk, or any other public ground or public area, in a menacing or threatening fashion or apparent attitude of attack; or

(4) Any specific domestic animal with a known propensity, tendency, or disposition to attack when unprovoked, or to cause injury, or to threaten the safety of human beings or other domestic animals.

(D) (1) No animal may be declared to be a dangerous domestic animal or a potentially dangerous domestic animal if it inflicts injury or damage upon a human being committing a willful trespass or other tort upon premises occupied by the owner of the animal or upon a human being committing or attempting to commit a crime.

(2) No animal may be declared to be a dangerous domestic animal or a potentially dangerous domestic animal for taking action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault.

(3) No animal used in lawful activities of law enforcement officials shall be declared to be a dangerous domestic animal or a potentially dangerous domestic animal.

(4) No animal may be declared to be a dangerous domestic animal under division (B)(2) of this section if the individual was tormenting, abusing, or assaulting the animal at the time of the injury or has, in the past, been observed or reported to have tormented, abused or assaulted the animal.

(5) No animal may be declared to be a dangerous domestic animal under division (B)(5) of this section if the injury, damage, or threat was sustained by an individual who, at the time, was tormenting, abusing, or assaulting the animal, or has, in the past, been observed or reported to have tormented, abused or assaulted the animal.

(E) *Definitions.* For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL AUTHORITY. An entity authorized to enforce the animal control laws of the city.

ANIMAL CONTROL OFFICER. Any individual designated or authorized by an animal control authority for the purpose of aiding in the enforcement of this chapter or of any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals, and also includes any state or local law enforcement officer as well as any other state or local employee or

appointee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal or animals.

DOMESTIC ANIMAL. A cat or a dog.

MEDICAL TREATMENT. Treatment administered by a physician or other licensed health care professional that results in one or more sutures, surgery, or treatment for one or more broken bones.

OWNER. Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a domestic animal.

SERIOUS INJURY ON A DOMESTIC ANIMAL. An injury to a domestic animal that requires treatment administered by a veterinarian, veterinary clinic, veterinary hospital, or veterinary office, that results in one or more sutures, surgery, or treatment for one or more broken bones. ('79 Code, § 6-114) (Am. Ord. 283, passed 4-11-81; Am. Ord. 1160, passed 12-20-11; Am. Ord. 1353, passed 7-2-19) Penalty, see § 95.99

§ 95.14 DESTRUCTION OF PROPERTY.

The purpose of this chapter is in part to preserve the peace, the safety and the tranquillity of the citizens in their persons and property and protect same from the risk of loss due to animals. If damage is caused to persons or property by any dog, cat or rabbit as a result of any person's violation of this chapter, the owner of such dog, cat or rabbit and any other person or persons shown to have aided in the violation thereof are jointly and severally liable for the full amount of such damage. ('79 Code, § 6-115) (Ord. 212, passed - -; Am. Ord. 283, passed 4-11-81)

Statutory reference:

Statutory liability, see Neb. RS 54-601

Joint liability, see Neb. RS 54-602

§ 95.15 SEIZURE AND CONFINEMENT.

(A) It shall be the duty of the animal control authority to capture, secure, and remove to the animal shelter or other suitable impoundment or care facility, in as humane manner as is practicable under the circumstances, any animal running at large, owned, kept, harbored, or confined in violation of this chapter. The animals 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 animal shelter, impoundment, or other care facility for a period of not less than five days after public notice has been given unless keeping or harboring the animal is lawful within the city and the animal has been reclaimed earlier by its owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the animal control authority within 24 hours after impoundment as public notification of such impoundment.

(B) If keeping or harboring the impounded animal is lawful within the city, then such animal may be reclaimed by its owner during the period of impoundment by payment of the required fees as set by the animal control authority. The owner shall then be required to comply with applicable licensing and rabies vaccination requirements within 72 hours after release unless earlier compliance is required by applicable state statutes or rules or regulations of the Nebraska Department of Health and Human Services or provider of animal control within the city, or other rules or regulations of the city, as adopted or amended from time to time. If the animal is not claimed at the end of the required waiting period after public notice has been given, the animal control authority may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same, provided that if, in the judgment of the animal control authority, a suitable home can be found for any such animal, the animal shall be turned over to that person and the new owner shall then be required to pay all fees and comply with all applicable licensing and vaccinating requirements provided in this chapter.

(C) The city and/or animal control authority shall acquire legal title to any unlicensed animal impounded in the animal shelter for a period longer than the required waiting period after giving notice.

(D) All expenses of licensing such animals and maintaining the city dog pound and the salary of the humane officer shall be paid out of the general fund of the city, and all sums collected by the City Clerk for animal licensing and all impounding charges collected shall be deposited to and become a part of the general fund of the city, unless otherwise provided for by a contract entered into pursuant to § 95.16 of this chapter.

(E) Notwithstanding anything to the contrary in this section:

(1) In the event that the County Attorney files a criminal complaint in connection with a seized animal, the court in which such complaint was filed shall have exclusive jurisdiction for disposition of the animal and to determine any rights therein, including questions respecting the title, possession, control, and disposition thereof.

(2) In the event that an animal seized pursuant to Neb. RS 28-1006 or Neb. RS 28-1012, disposition and the cost for the care of such animal shall be governed by Neb. RS 28-1012.01. ('79 Code, § 6-119) (Ord. 212, passed - -; Am. Ord. 348, passed 9-6-83; Am. Ord. 1160, passed 12-20-11; Am. Ord. 1353, passed 7-2-19; Am. Ord. 1445, passed 2-1-22)

§ 95.16 CONTRACTING FOR ANIMAL CONTROL SERVICES.

(A) The Mayor and City Council, in lieu of utilizing city employees, may contract with humane societies or others for the performance of all or a part of the services required to carry out and enforce the provisions of this chapter.

(B) During such time as such services are under contract, then to the extent said services are contracted:

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(1) The Humane Society or other contractor shall generally perform the duties prescribed by ordinance to be performed by the city humane officer.

(2) The Humane Society or other contractor shall be authorized to issue animal licenses, establish the dates upon which licenses become delinquent, waive delinquent fees for sufficient cause, subcontract with others to issue licenses and collect a handling fee, collect license fees, maintain licensing records and to perform such other duties as are prescribed by ordinance to be performed by the City Clerk in connection with the control of animals and the licensing thereof.

(3) The Mayor and City Council may by resolution specially deputize the employees of such Humane Society or other contractor for the limited purpose of issuing complaints and citations for the violation of this chapter. However, such deputization shall not include the authority to make arrests of persons for such violations, and any such arrests shall be made by regular law enforcement officers. ('79 Code, § 6-123) (Ord. 339, passed 5-31-83; Am. Ord. 876, passed 11-5-02)

§ 95.17 DOG KENNELS, CATTERIES AND PET STORES.

(A) Every person, firm, or entity engaged in the commercial business of buying, selling, breeding or boarding of dogs or cats in the city or who owns, harbors or keeps three or more dogs or three or more cats more than four months of age may do so only after obtaining a license to do so as provided by this section.

(B) The licensing for such activities is as follows:

(1) *Kennel or cattery license.* For the breeding and/or boarding of dogs or cats, an annual license fee shall be paid to the city in such amount as set from time to time by the Mayor and City Council, a current record of which shall be maintained by the City Clerk. Such kennel license shall be issued for a period of one year and shall run from the first day of January of each calendar year to the thirty-first day of December next following on which day it shall expire. Kennels and catteries may be maintained only on premises specified in and in accordance with the building and zoning ordinances, rules, and regulations of the city, as amended from time to time, and a license shall not be issued for any other premises.

(2) *Licensed pet store.* For the selling of pets, including dogs and cats, at retail only, an annual license fee shall be paid to the city in such amount as set from time to time by the Mayor and City Council, a current record of which shall be maintained by the City Clerk. Such license shall be issued for a period of one year and shall run from the first day of January of each calendar year to the thirty-first day of December next following on which day it shall expire. Pet stores may be maintained only on premises specified in and in accordance with the building and zoning ordinances, rules, and regulations of the city, as amended from time to time, and a license shall not be issued for any other premises.

('79 Code, § 6-122) (Ord. 296, passed 2-2-82) Penalty, see § 95.99

§ 95.18 ANIMAL EXCREMENT; REMOVAL REQUIRED.

(A) It shall be unlawful for the owner or custodian of any animal, or any person harboring any animal, to fail to remove feces, excrement, or droppings deposited by such animal on streets, sidewalks, parks, recreation areas, or any other public or private property, or in any water, immediately after the animal has deposited said feces, excrement, or droppings.

(B) It is an affirmative defense to a violation of this section if a competent person in immediate control of the animal immediately removes and deposits the fecal matter, excrement, or droppings deposited by an animal in an appropriate trash container.

(C) This section shall not apply to any person using a trained guide dog because of visual or other physical impairment.

(D) Farm property and large tracts of land used as riding stables shall be exempt from this section. (Am. Ord. 1434, passed 12-7-21)

§ 95.19 POTENTIALLY DANGEROUS DOMESTIC ANIMAL; DETERMINATION.

(A) The preliminary determination as to whether a particular animal is a potentially dangerous domestic animal shall be made by the city's animal control authority on the basis of reasonable evidence, which may include but shall not be limited to reports and statements of witnesses, observation, and the opinion of experts. If the animal control officer has reasonable cause to believe that the animal threatens the safety of the public or of domestic animals, the animal control officer may enter upon any premises upon which the animal is kept and remove the animal from those premises to a place of impoundment.

(B) If the animal control authority has preliminarily determined an animal to be a potentially dangerous domestic animal as defined in § 95.13, the animal control authority shall initiate administrative proceedings to make such determination final by serving a preliminary determination notice on such animal's owner either:

(1) Personally;

(2) By certified mail, return receipt requested, addressed to the owner at the owner's usual place of residence; or

(3) By residence service, which shall mean leaving a copy at the owner's usual place of residence with some person of suitable age and discretion residing therein. The preliminary determination notice shall contain:

(a) The name and address of the owner whose animal is the subject of the proceeding;

(b) The name, description and any known license number of the animal that is the subject of the proceeding;

(c) A statement that the animal control authority has preliminarily determined the animal to be a potentially dangerous domestic animal and a summary description of the facts that form the basis of such preliminary determination;

(d) A summary of the effects of a final determination that the animal is a potentially dangerous domestic animal, including a summary or copy of the requirements of §§ 95.21, 95.22, 95.23, and 95.24, and a statement that noncompliance by the owner with such requirements will result in the owner being declared a reckless owner by the animal control authority;

(e) A statement of the effective date on which the preliminary determination notice will become a final determination order if the owner does not file a timely written request for hearing with the animal control authority, which effective date shall be not less than ten days after the date of mailing (or of personal or residence service) of the preliminary determination notice; and

(f) A statement that the owner may file with the city's animal control authority a written request for hearing within ten days after the date of the mailing (or within ten days after the personal or residence service) of the preliminary determination notice.

(C) If the owner whose animal is preliminarily determined to be a potentially dangerous domestic animal does not file a written request for hearing with the animal control authority within ten days after the date of mailing (or within ten days after the personal or residence service) of the preliminary determination notice, the preliminary determination notice shall become a final determination order on the effective date stated in the preliminary determination notice, and the city's animal control authority shall so indicate in the records of the animal control authority. In such a case, the owner shall comply with § 95.24 immediately, with §§ 95.21 and 95.22 within 30 days after such effective date, and with § 95.23 within 90 days after such effective date. If the owner fails to comply with any of such sections within the time limits specified, the animal control authority shall initiate administrative proceedings under § 95.20 to declare the owner a reckless owner.

(D) If the owner whose animal is preliminarily determined to be a potentially dangerous domestic animal files a written request for hearing with the animal control authority within ten days after the date of mailing (or within ten days after the personal or residence service) of the preliminary determination notice, a hearing on such preliminary determination notice shall be held by a hearing officer designated by the animal control authority. The hearing shall be held if practicable within ten days after the date of receipt by the animal control authority of the written request for hearing. Written notice of the time and place of hearing shall be served on the owner of the animal by personal service, or by residence service as described in § 95.19(B), not less than 48 hours prior to the scheduled hearing. At the hearing, the owner shall be provided an opportunity to appear and offer evidence to dispute the preliminary determination notice. A written determination to affirm or reverse the preliminary determination notice shall be entered by the hearing officer within ten days after the date of the hearing, if practicable. If the preliminary determination notice is affirmed, the hearing officer shall enter a final determination order and, unless the owner initiates a timely appeal under § 95.19(E), such order shall require the owner to comply with § 95.24 immediately, with §§ 95.21 and 95.22 within 30 days after the entry of the final determination order, and with § 95.23 within 90 days after entry of the final determination order. If the owner fails to comply with any of such sections within the time limits specified, the animal control authority shall initiate administrative proceedings under § 95.20 to declare the owner a reckless owner.

(E) Within ten days after the date of the hearing officer's decision, either the owner aggrieved by a decision of the hearing officer or the animal control authority may appeal such decision to the City of La Vista Board of Health in such manner and in accordance with such procedures as the Board of Health may establish by rule or regulation. The Board of Health may affirm or reverse the decision of the hearing officer and shall be empowered to enter any order the hearing officer might have entered. If so ordered by the Board of Health, the owner shall comply with § 95.24 immediately, with §§ 95.21 and 95.22 within 30 days after the entry of the order, and with § 95.23 within 90 days after entry of the order. If the owner fails to comply with any of such sections within the time limits specified, the animal control authority shall initiate administrative proceedings under § 95.20 to declare the owner a reckless owner.

(F) An owner may request termination of a final determination order that the owner's animal is a potentially dangerous domestic animal if no incident described in § 95.13(C) has occurred within two years preceding the date of the termination request. Such a request for termination shall be heard by a hearing officer designated by the animal control authority, if practicable, within ten days after the date of the filing of the request for termination. The hearing shall provide an opportunity for the owner to appear and offer evidence to support termination of the final determination order. The owner must provide documented evidence that the animal's behavior has changed due to environment, health, age, training, neutering or other relevant factor or factors. The owner shall pay a filing fee in the sum of \$100 at the time of filing the termination request. A decision to continue, terminate or modify such final determination order shall be entered by the hearing officer within ten days, if practicable, after the date of the hearing.

(Ord. 1160, passed 12-20-11)

§ 95.20 RECKLESS OWNER.

(A) If an owner has been convicted of one or more violations of this chapter on three separate occasions in any period of 24 consecutive months, the animal control authority shall initiate administrative proceedings to declare such owner a reckless owner and to revoke all pet license(s) issued to such owner that are associated with the owner's animal(s) that were the subject or subjects of any of such convictions. If an owner's animal has been determined to be a dangerous domestic animal or a potentially dangerous domestic animal and such owner has not complied in a timely manner with the requirements of this chapter pertaining to such animals, the animal control authority shall initiate administrative proceedings to declare such owner a reckless owner and to revoke all pet license(s) issued to such owner that are associated with such animal. In either case, such proceedings shall be instituted by service of a written declaration and revocation notice upon such owner, either:

(1) Personally;

(2) By certified mail, return receipt requested, addressed to the owner at the owner's usual place of residence; or

(3) By residence service, which shall mean leaving a copy at the owner's usual place of residence with some person of suitable age and discretion residing therein. The declaration and revocation notice shall contain:

(a) The name and address of the owner who is subject to such declaration and revocation notice;

(b) The name(s), description(s) and license number(s) of any animal(s) associated with such violations licensed to the owner;

(c) A description of the violations or requirements which form the basis of such declaration and revocation notice, including the case numbers, if any;

(d) A summary of the effects of such declaration, including the revocation of such pet license(s) and surrender to the animal control authority of such animal(s);

(e) The date the animal control authority proposes to enter a final declaration and revocation order, which shall be not less than ten days after the date of mailing (or of personal or residence service) of the notice; and

(f) A statement that the owner may file with the city's animal control authority a written request for hearing within ten days after the date of the mailing (or within ten days after the personal or residence service) of the declaration and revocation notice.

(B) If the owner does not file a written request for hearing within ten days after the date of mailing (or within ten days after the personal or residence service) of the declaration and revocation notice, then such declaration and revocation notice automatically shall become a final declaration and revocation order, and within twenty-four hours after the expiration of such ten-day period the owner shall surrender such animal(s) to the animal control authority. Failure to surrender such animal(s) shall result in immediate impoundment by the animal control authority in accordance with § 95.15. Such surrendered or impounded animal(s) shall immediately become the property of the animal control authority and may be disposed of or destroyed humanely by the animal control authority, or placed with a new owner, as the authority deems appropriate.

(C) If the owner files a written request for hearing within ten days after the date of mailing (or within ten days after the personal or residence service) of the declaration and revocation notice, a hearing on such declaration and revocation notice shall be held by a hearing officer designated by the animal control authority. The hearing shall be held if practicable within ten days after the date of receipt by the animal control authority of the written request for hearing. Written notice of the time and place of hearing shall be served on the owner of the animal by personal service, or by residence service as described in § 95.20(A), not less than 48 hours prior to the scheduled hearing. At the hearing, the owner shall be provided an opportunity to appear and offer evidence to dispute the declaration and revocation

notice. A written determination to affirm or reverse such declaration and revocation notice shall be entered by the hearing officer within ten days after the date of the hearing if practicable. If the decision is to affirm the declaration and revocation notice, the hearing officer shall enter a final declaration and revocation order requiring the owner to surrender such animal(s) to the animal control authority within ten days after the date of the hearing officer's decision, unless the owner initiates a timely appeal from such decision under § 95.20(D).

(D) Within ten days after the date of the hearing officer's decision, either the owner aggrieved by a decision of the hearing officer or the animal control authority may appeal such decision to the City of La Vista Board of Health in such manner and in accordance with such procedures as the Board of Health may establish by rule or regulation. The Board of Health may affirm or reverse the decision of the hearing officer and shall be empowered to enter any order the hearing officer might have entered.

(E) An owner who is declared a reckless owner shall be prohibited from licensing, residing with, or owning any additional animal(s) in the city for a period of 48 consecutive months from the date of entry of the declaration and revocation order.
(Ord. 1160, passed 12-20-11)

§ 95.21 DANGEROUS AND POTENTIALLY DANGEROUS DOMESTIC ANIMALS; SPAYING OR NEUTERING; MICROCHIP IDENTIFICATION AND LICENSE REQUIRED.

Any animal judicially determined to be a dangerous domestic animal (but not ordered to be destroyed), and any animal administratively finally determined to be a potentially dangerous domestic animal, shall be spayed or neutered and implanted with microchip identification by a licensed veterinarian at the owner's expense within 30 days after such determination is entered, and written proof of spaying or neutering and of microchip identification number implantation shall be provided to the animal control authority within 72 hours after completion of the procedure. In addition, such dangerous or potentially dangerous domestic animal shall be required to be licensed as a dangerous or potentially dangerous domestic animal within 30 days after the determination.
(Ord. 1160, passed 12-20-11)

§ 95.22 DANGEROUS AND POTENTIALLY DANGEROUS DOMESTIC ANIMALS; PROOF OF INSURANCE.

No animal judicially determined to be a dangerous domestic animal or administratively determined to be a potentially dangerous domestic animal shall be licensed unless the person having custody, ownership or control of such animal first presents to the animal control authority written proof of liability insurance, written by an insurer authorized to issue such insurance in Nebraska, having limits of liability of not less than \$100,000 for injury to any one person caused by such animal. Such insurance shall be maintained in effect for the entire period such animal is deemed to be a dangerous domestic

animal or potentially dangerous domestic animal. The animal control authority may require proof that such insurance coverage remains in effect at any time, but not more frequently than every 60 days, or may require such policy of insurance to provide that it may not be cancelled or allowed to expire without 30 days prior written notice to the animal control authority.

(Ord. 1160, passed 12-20-11)

**§ 95.23 DANGEROUS AND POTENTIALLY DANGEROUS DOMESTIC ANIMALS;
CLASSES REQUIRED.**

The owner of any animal judicially determined to be a dangerous domestic animal or administratively determined to be a potentially dangerous domestic animal shall be required to attend, within 90 days after such determination is entered and at the owner's expense, a responsible pet ownership class approved by the animal control authority and, at the discretion and direction of the animal control authority, an animal behavior class provided or approved by the animal control authority.

(Ord. 1160, passed 12-20-11)

**§ 95.24 DANGEROUS OR POTENTIALLY DANGEROUS DOMESTIC ANIMALS; LEASH,
MUZZLE AND HARNESS REQUIRED.**

(A) It shall be unlawful for any person owning, harboring, or having the care of a dangerous domestic animal or potentially dangerous domestic animal to permit or enable such animal to go beyond the property of such person unless the animal is under the control of a person 19 years of age or older, the animal is restrained securely by a harness and leash no more than six feet in length, and the animal is properly muzzled to reasonably prevent the animal from biting.

(B) Definitions. For purposes of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HARNESS. A close fitting device with straps that encircle the animal's body across the chest, over the shoulders, and under the belly behind the front legs, to which a leash can be securely attached, and which is constructed of materials sufficient to securely restrain the animal wearing it given the size and strength of the animal.

LEASH. A strap, rope or similar tethering device that can be securely attached to a harness and which is of sufficient strength and weight to securely restrain the animal wearing the harness.

MUZZLE. A basket or cage-like device approved by the animal control authority to cover the animal's mouth and snout and prevent the animal from biting, but which allows the animal to open its mouth to pant and drink.

(Ord. 1160, passed 12-20-11)

§ 95.25 DANGEROUS DOMESTIC ANIMALS; CONFINED.

No person owning, harboring, or having the care of a dangerous domestic animal shall permit such animal to go unconfined on the premises of such person. A dangerous domestic animal 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 children under six years of age and to prevent the animal from escaping. The pen or structure, if allowed by zoning regulations, shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded no less than one foot into the ground or have a concrete pad. The pen or structure shall also protect the animal from the elements. The owner of a dangerous domestic animal shall post a clearly visible warning sign on the property where the animal is kept that informs persons that a dangerous domestic animal is on the property.

(Ord. 1160, passed 12-20-11)

§ 95.26 DANGEROUS AND POTENTIALLY DANGEROUS DOMESTIC ANIMALS; IMPOUNDMENT.

Any animal that has been determined to be a dangerous domestic animal or a potentially dangerous domestic animal that bites a human being without provocation may be immediately impounded by an animal control officer and held until disposition of the animal is finally determined. The owner shall be responsible for the reasonable costs incurred for the care of such impounded animal.

(Ord. 1160, passed 12-20-11)

§ 95.27 DANGEROUS DOMESTIC ANIMALS AT LARGE; DESTRUCTION.

If an animal has been determined to be a dangerous domestic animal as defined in § 95.13 is found at large and unattended upon public property, park property, or a public right-of-way, or upon property not owned or under the control of the owner of the animal, thereby creating a hazard to persons or property, such animal may, in the discretion of the Chief of Police or his or her designee, the animal control authority, the animal control officer, or a law enforcement officer, be destroyed if the authority or officer reasonably believes the animal cannot be confined or captured without unreasonable risk of harm to persons or property. The city shall be under no duty to attempt the confinement or capture of a dangerous domestic animal found at large nor shall it have a duty to notify the owner of such animal prior to its destruction.

(Ord. 1160, passed 12-20-11)

§ 95.28 DANGEROUS DOMESTIC ANIMALS; FAILURE TO COMPLY.

(A) Any dangerous domestic animal may be immediately confiscated by an animal control officer if the owner is in violation of this chapter. The owner shall be responsible for the reasonable costs

incurred by the animal control authority for the care of such dangerous domestic animal confiscated by an animal control officer and for the destruction of any dangerous domestic animal if the action by the animal control authority is pursuant to law and if the owner violated this chapter.

(B) In addition to any other penalty, a court may order the animal control authority to dispose of or destroy a dangerous domestic animal in an expeditious and humane manner.
(Ord. 1160, passed 12-20-11)

§ 95.29 IMPOUNDMENT OF CERTAIN ANIMALS DURING ENFORCEMENT PROCEEDINGS.

(A) If there is reasonable cause shown that a domestic animal would constitute a hazard to the safety of the public at large during the pendency of any action or proceeding commenced under this chapter, or that the owner of such animal has subjected the animal to neglect or cruelty, the court may order such animal impounded pending the outcome of such proceedings. Any person who owns, kept, harbored, maintained, or controlled the animal involved in such impoundment shall pay all expenses of the impoundment to the animal control authority, including costs of shelter, food, veterinary expenses, boarding, and other expenses necessitated by the impoundment of the animal or as may be required for the protection of the public. The animal control authority may require such person, prior to expiration of ten days after the date of impoundment, to pay an amount sufficient to pay all reasonable expenses incurred in caring and providing for the animal, including estimated medical care, for thirty days, inclusive of the date on which the animal was impounded. If such payment is not made prior to expiration of such ten-day period, the animal shall become the property of the animal control authority and may be humanely disposed of, destroyed, or placed with a new owner, as the animal control authority deems appropriate. Such payment shall be required for each succeeding 30-day period. If any such payment is not made prior to the end of each succeeding 30-day period, the animal shall become the property of the animal control authority and may be humanely disposed of, destroyed, or placed with a new owner, as the animal control authority deems appropriate.

(B) The amount of the payment shall be determined by the animal control authority based on the current rate for board at the animal shelter and the condition of the animal after its examination by a veterinarian acting for the animal control authority. Any such payment received by the animal control authority in excess of the amount determined by the animal control authority to be due for the board and care of the animal shall be refunded by the animal control authority upon expiration of the order of impoundment. Notwithstanding the foregoing, if the owner of the animal is found not guilty of animal neglect or cruelty, the owner shall only be required to pay the veterinary expenses and one-half of the board and care fees determined by the animal control authority to be due.

(C) Notwithstanding the foregoing, if it is determined by a veterinarian acting for the animal control authority that such animal is diseased or disabled, that it would be inhumane to allow such animal to continue to suffer the effects of such disease or disability, and that the owner of such animal declines to

advance the costs of reasonable veterinary efforts to cure or ameliorate the effects of such disease or disability and that the costs of such veterinary efforts are not otherwise economically practicable, then the animal shall immediately become the property of the animal control authority and may be humanely disposed of, destroyed, or placed with a new owner, as the animal control authority deems appropriate.

(Ord. 1160, passed 12-20-11)

CATS

§ 95.30 LICENSE APPLICATION.

No persons shall own, keep or harbor any cat within the city limits unless such cat is licensed as herein provided. Written application for such license shall be made to the City Clerk and shall state the name and address of the owner and the name, breed, color, age, sex and any other information as may identify the cat. The license fee shall be paid at the time of making application, a numbered receipt given to the applicant and a numbered identification tag shall be given to the owner.

('79 Code, § 6-104) (Ord. 186, passed - -) Penalty, see § 95.99

§ 95.31 LICENSE FEE.

(A) The annual cat license fee, delinquent fee and handling fee shall be in such amount as set from time to time by the Mayor and City Council, a current record of which shall be maintained by the City Clerk.

(B) Except as provided in division (C) of this section, all cat licenses shall be issued for a period of one year and shall run from the first day of January of each calendar year to the thirty-first day of December next following, on which day it shall expire. A license must be procured by January first of each year. If a cat or cats are acquired by any owner, keeper or harborer after January first of a licensing year, a license for each cat must be obtained within 30 days after the acquisition of same, and upon reasonable proof of licensing within 30 days after acquisition, the license fee for each cat shall be as set forth in division (A) of this section. If any owner, keeper or harborer of a cat or cats becomes a resident of the city after January first of a licensing year, a license for each cat must be procured upon reasonable proof of licensing within 30 days after establishing such residency, and upon reasonable proof of licensing within 30 days after new residency is established, the license fee for each cat shall be as set forth in division (A) of this section. If, at any time a cat is determined by the City Clerk or agency designated by the city pursuant to § 95.16 to be unlicensed in violation of this section, the license fee for a cat license thereafter procured for such cat for the remainder of the licensing year shall be in such amount as set from time to time by the Mayor and City Council, a current record of which shall be maintained by the City Clerk. Such license fee shall be in addition to any other fine or penalty imposed for violation of this section. No person shall own, keep or harbor a greater number of cats than permitted by § 95.11.

(C) The initial licensing year for which this section shall be effective shall commence on May 1, 1993 and end on December 31, 1993, and licenses issued for such licensing year pursuant to this section shall be valid only for such period. Upon compliance with all other applicable licensing requirements set forth in this chapter, the City Clerk or agency designated by the city pursuant to § 95.16 of this chapter shall issue licenses for the initial licensing year upon payment of a licensing fee in the amount of two-thirds of the licensing fee set forth in division (A) of this section. ('79 Code, § 6-105) (Ord. 186, passed - -; Am. Ord. 312, passed 7-20-82; Am. Ord. 348, passed 9-6-83; Am. Ord. 560, passed 4-6-93; Am. Ord. 876, passed 11-5-02)

§ 95.32 VACCINATION - REQUIRED.

Unless earlier vaccination or greater requirements are specified by applicable state statutes, rules or regulations of the Nebraska Department of Health and Human Services or provider of animal control within the city, or other rules or regulations of the city, as adopted or amended from time to time:

(A) Every cat required to be licensed by this chapter shall be vaccinated against rabies within 30 days after they have reached three months of age, one year after initial vaccination, and thereafter triennially, according to vaccine manufacturers' guidelines. Unvaccinated cats acquired or moved into the state must be vaccinated within 30 days after purchase or arrival, unless under three months of age as specified above.

(B) A cat is currently vaccinated if the initial rabies vaccine was administered at least 28 days previously or booster vaccinations have been administered in accordance with the manufacturer's guidelines. Regardless of the age of the cat at initial vaccination, a booster vaccination shall be administered one year later. If a previously vaccinated cat is overdue for a booster, it shall be revaccinated.

(C) An owner or keeper of any cat required by this chapter to be licensed and to be vaccinated by a licensed veterinarian is exempt from the requirements of this section if a medical reason exists that precludes the vaccination of the cat. To qualify for this exemption, the owner or keeper must have a written statement signed by a licensed veterinarian that includes a description of the cat and the medical reason that precludes vaccination. ('79 Code, § 6-106) (Ord. 186, passed - -; Am. Ord. 437, passed 6-16-87; Am. Ord. 1137, passed 2-1-11; Am. Ord. 1445, passed 2-1-22)

Statutory reference:

Control and prevention of rabies; rules and regulations, see Neb. RS 77-4402.03

DOGS**§ 95.45 LICENSE APPLICATION.**

No person shall own, keep or harbor any dog within the city limits unless such dog is licensed as provided herein. Written application for such license shall be made to the City Clerk and shall state the name and address of the owner and the name, breed, color, age and sex of the dog and a statement of the owner as to the number of other dogs, if any, being harbored on said premises. The license fee shall be paid at the time of making application, and a numbered identification tag shall be issued to the owner.

(‘79 Code, § 6-101) (Ord. 186, passed - -) Penalty, see § 95.99

§ 95.46 LICENSE FEE.

(A) The annual dog license fee, delinquent fee and handling fee shall be in such amount as set from time to time by the Mayor and City Council, a current record of which shall be maintained by the City Clerk.

(B) Except as provided in division (C) of this section, all dog licenses shall be issued for a period of one year and shall run from the first day of January of each calendar year to the thirty-first day of December next following, on which day it shall expire. A license must be procured by January first of each year. If a dog or dogs are acquired by any owner, keeper or harbored after January first of a licensing year, a license for each dog must be obtained within 30 days after the acquisition of same, and upon reasonable proof of licensing within 30 days after acquisition, the license fee for each dog shall be as set forth in division (A) of this section. If any owner, keeper or harbored of a dog or dogs becomes a resident of the city after January first of a licensing year, a license for each dog must be procured upon reasonable proof of licensing within 30 days after establishing such residency, and upon reasonable proof of licensing within 30 days after new residency is established, the license fee for each dog shall be as set forth in division (A) of this section. If, at any time a dog is determined by the City Clerk or agency designated by the city pursuant to § 95.16 of this chapter to be unlicensed in violation of this section, the license fee for a dog license thereafter procured for such dog for the remainder of the licensing year shall be in such amount as set from time to time by the Mayor and City Council, a current record of which shall be maintained by the City Clerk. Such license fee shall be in addition to any other fine or penalty imposed for violation of this section. No person shall own, keep or harbor a greater number of dogs than permitted by § 95.11.

(C) The initial licensing year for which this section shall be effective shall commence on May 1, 1993 and end on December 31, 1993, and licenses issued for such licensing year pursuant to this section shall be valid only for such period. Upon compliance with all other applicable licensing requirements

set forth in this chapter, the City Clerk or agency designated by the city pursuant to § 95.16 shall issue licenses for the initial licensing year upon payment of a licensing fee in the amount of two-thirds of the licensing fee set forth in division (A) of this section. ('79 Code, § 6-102) (Ord. 186, passed - -; Am. Ord. 296, passed 2-2-82; Am. Ord. 348, passed 9-6-83; Am. Ord. 560, passed 4-6-93; Am. Ord. 876, passed 11-5-02)

§ 95.47 VACCINATION - REQUIRED.

Unless earlier vaccination or greater requirements are specified by applicable state statutes, rules or regulations of the Nebraska Department of Health and Human Services or provider of animal control within the city, or other rules or regulations of the city, as adopted or amended from time to time:

(A) Every dog required to be licensed by this chapter shall be vaccinated against rabies within 30 days after they have reached three months of age, one year after initial vaccination, and thereafter triennially, according to vaccine manufacturers' guidelines. Unvaccinated dogs acquired or moved into the state must be vaccinated within 30 days after purchase or arrival, unless under three months of age as specified above.

(B) A dog is currently vaccinated if the initial rabies vaccine was administered at least 28 days previously or booster vaccinations have been administered in accordance with the manufacturer's guidelines. Regardless of the age of the dog at initial vaccination, a booster vaccination shall be administered one year later. If a previously vaccinated dog is overdue for a booster, it shall be revaccinated.

(C) An owner or keeper of any dog required by this chapter to be licensed and to be vaccinated by a licensed veterinarian is exempt from the requirements of this section if a medical reason exists that precludes the vaccination of the dog. To qualify for this exemption, the owner or keeper must have a written statement signed by a licensed veterinarian that includes a description of the dog and the medical reason that precludes vaccination.

('79 Code, § 6-103) (Ord. 186, passed - -; Am. Ord. 312, passed 7-20-82; Am. Ord. 436, passed 6-16-87; Am. Ord. 1137, passed 2-1-11; Am. Ord. 1445, passed 2-1-22)

Statutory reference:

Control and prevention of rabies; rules and regulations, see Neb. RS 77-4402.03

§ 95.48 BARKING AND OFFENSIVE.

(A) It shall be unlawful for any person to own, keep or harbor any dog within the city which by constant and continuous barking, whining or howling in an excessive, continuous or untimely fashion shall annoy or disturb the surrounding neighborhood or other persons. In addition, no person shall own, keep or harbor any cat within the city which by meowing or yowling in an excessive, continuous or untimely fashion shall annoy or disturb the surrounding neighborhood or other persons.

(B) Any dog which annoys or disturbs the surrounding neighborhood or other persons by the constant and continuous barking, whining or howling in an excessive, continuous or untimely fashion or any cat which annoys or disturbs the surrounding neighborhood or other persons by meowing or yowling in an excessive, continuous or untimely fashion may be declared a public nuisance and impounded by the licensing authority.

(C) Any dog or cat so impounded may be reclaimed upon payment of the kennel and impoundment fees prescribed by the licensing authority. The provisions of this section shall not be construed to apply to the city dog shelter.

('79 Code, § 6-116) (Am. Ord. 876, passed 11-5-02) Penalty, see § 95.99

§ 95.49 FEMALES IN ESTRUS.

It shall be unlawful for anyone to harbor a female dog in estrus (heat) within the city unless the dog is penned in a completely enclosed kennel, garage, basement, or other adequate facility that will keep said female in and other dogs out.

('79 Code, § 6-117) Penalty, see § 95.99

§ 95.50 DOG GUIDES, HEARING AID DOGS, SERVICE DOGS; EXEMPT FROM LICENSE TAX.

Every dog guide for a blind or visually-impaired person, hearing aid dog for a deaf or hearing-impaired person and service dog for a physically limited person shall be licensed as required by the city code, but no license tax shall be charged upon a showing by the owner that the dog is a graduate of a recognized training school for dog guides, hearing aid dogs or service dogs. Upon the retirement or discontinuance of the dog as a dog guide, hearing aid dog or service dog, the owner of the dog shall be liable for the payment of the required license tax.

(Ord. 767, passed 4-20-99) Penalty, see § 95.99

Statutory reference:

Statutory fee exemption, see Neb. RS 54-603

§ 95.51 PROHIBITED TREATMENT AGAINST POLICE DOGS.

(A) *Prohibited acts.* It shall be unlawful for any person to taunt, torment, tease, beat, strike, interfere with, endanger, injure or kill or administer or subject desensitizing drugs, chemicals or substances to any dog used by a law enforcement officer in the performance of their duties or when the dog is placed in a kennel or any enclosure while off duty.

(B) *Exception.* This section shall not apply to any police officer or veterinarian who is required to treat any such animal or who may perform euthanasia in an emergency situation when delay would cause the dog undue suffering and pain.
(Ord. 755, passed 12-1-98) Penalty, see § 95.99

§ 95.99 PENALTY.

Unless otherwise specified in applicable state statute or in another chapter or section of this code with respect to a particular violation, any person, firm, or entity that violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall upon conviction thereof be subject to a fine in the amounts set forth below, plus court costs:

First Offense:	A fine of not less than \$50 nor more than \$100
Second Offense:	A fine of not less than \$100 nor more than \$200
Third Offense:	A fine of not less than \$200 nor more than \$500
Fourth Offense:	A fine of \$500 and any subsequent offense

(‘79 Code, § 6-120) (Am. Ord. 283, passed 4-11-81; Am. Ord. 1434, passed 12-7-21)

