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CHAPTER 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: OBSTRUCTING AN OFFICER

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

SECTION 3-102: RESISTING OR FAILING TO ASSIST OFFICER

It shall be unlawful for any person in this city to hinder, obstruct, or resist any police officer in making any arrest or performing any duty of his or her office or to refuse or neglect to assist any such officer when called upon by him or her in making any arrest or conveying a prisoner to jail. (Neb. Rev. Stat. §§28-903, 28-904)

SECTION 3-103: IMPERSONATING OFFICER

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

SECTION 3-104: FALSE REPORTING

It shall be unlawful for any person to:

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

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

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

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

E. Furnish material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an on-going investigation and which actually results in causing or impeding such investigation. (Neb. Rev. Stat. §28-907)

SECTION 3-105: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON

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

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

SECTION 3-106: CONCEALED WEAPONS

Except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his or her person such as a revolver, pistol, Bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon. This section shall not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon which the offender is carrying is a handgun as defined in Neb. Rev. Stat. §69-2429. (Neb. Rev. Stat. §§17-556, 28-1202)

SECTION 3-107: DISCHARGE OF FIREARMS

It shall be unlawful for any person, except an officer of the law in the performance of his or her official duty, to fire or discharge any gun or pistol within the city; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council. (Neb. Rev. Stat. §17-556)

SECTION 3-108: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENT

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

SECTION 3-109: STALKING

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

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

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

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

SECTION 3-110: CRIMINAL TRESPASS

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

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

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

1. Actual communication to the actor;
2. Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
3. Fencing or other enclosure manifestly designed to exclude intruders except as otherwise provided in subsection (A).

(Neb. Rev. Stat. §§28-520, 28-521)

SECTION 3-111: PUBLIC INDECENCY

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

- A. An act of sexual penetration as defined by Neb. Rev. Stat. §28-318(5);
 - B. An exposure of the genitals of the body done with intent to affront or alarm any person; or
 - C. A lewd fondling or caressing of the body of any other person of the same or opposite sex.
- (Neb. Rev. Stat. §28-806)

SECTION 3-112: PUBLIC NUILITY; AIDING AND ABETTING

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

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

SECTION 3-113: SEXUAL PREDATORS

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

1. "Child care facility" means a facility licensed pursuant to the Child Care Licensing Act;
2. "Political subdivision" means a village, a city, a county, a school district, a

public power district, or any other unit of local government;

3. "School" means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed in Neb. Rev. Stat. Chapter 79;
4. "Sex offender" means an individual who has been convicted of a crime listed in Neb. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and
5. "Sexual predator" means an individual who is required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01, and who has victimized a person 18 years of age or younger.

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

C. Exceptions. This section shall not apply to a sexual predator who (1) resides within a prison or correctional or treatment facility operated by the state or a political subdivision; (2) established a residence before July 1, 2006, and has not moved from that residence; or (3) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

(Neb. Rev. Stat. §§29-4016, 29-4017) (Ord. No. 2007-08, 10/2/07)

SECTION 3-114: WINDOW PEEPING

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

SECTION 3-115: CRIMINAL MISCHIEF

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger any person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$5,000.00. (Neb. Rev. Stat. §28-519)

SECTION 3-116: THEFT

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

the value of the thing involved is under \$500.00.

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

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

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

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

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

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

person entitled to have it.

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

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

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

SECTION 3-117: THREATS; ASSAULT IN THE THIRD DEGREE

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

SECTION 3-118: DISORDERLY CONDUCT

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

SECTION 3-119: DISTURBING THE PEACE; PROFANE OR OBSCENE LANGUAGE

It shall be unlawful for any person to intentionally disturb the peace and quiet of any person, family or neighborhood. Such prohibition shall include the following acts in any place, public or private:

A. An attempt to provoke an assault upon himself, herself, or another by the uttering of grossly vile or insulting words or epithets to any person, or to curse or swear at any person, or use grossly vile names or slander or abuse of the character of another person with the intention of provoking an assault by said person, or by another person;

B. Violent, tumultuous or disorderly conduct; menacing, threatening or assaulting; striking others; or quarreling or rioting;

C. Publicly cursing or swearing; or

D. Using any profane, obscene, indecent, abusive or offensive language or gestures.

(Neb. Rev. Stat. §§17-556, 28-1322) (Ord. Nos. 91-12, 12/5/91; 2004-02, 3/2/04)

SECTION 3-120: DISTURBING AN ASSEMBLY

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

SECTION 3-121: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS

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

SECTION 3-122: ALCOHOL; MINOR IN POSSESSION

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

SECTION 3-123: ALCOHOL; MISREPRESENTATION BY MINOR

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

**SECTION 3-124: TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS;
MINORS; VENDORS**

A. Any minor under the age of 18 years who shall smoke cigarettes or cigars, use vapor products or alternative nicotine products, or use tobacco in any form whatever shall be guilty of an offense. Any minor charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, vapor products, alternative nicotine products, or tobacco.

B. Any person who shall sell, give, or furnish in any way any tobacco in any form whatever or any cigarettes or cigarette paper, vapor products, or alternative nicotine products to any minor under 18 years of age is guilty of an offense.
(Neb. Rev. Stat. §§28-1418, 28-1419)

**SECTION 3-125: TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS;
MISREPRESENTATION BY MINOR**

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

SECTION 3-126: CURFEW

A. It shall be unlawful for any minor under the age of 16 years to loiter, wander or play in or upon any street, alley, park or public place, any railroad right of way, any place of public entertainment or recreation in the city, or any motor vehicle located in any of the above places after the hour of 10:30 p.m. of any day until the hour of 5:00 a.m. of the following day unless accompanied by a parent or guardian. It shall be unlawful for any parent or guardian of any minor under the age of 16 years to allow or permit such minor to loiter, wander or play in or upon any street, alley, park or public place, any railroad right of way, any place of public entertainment or recreation in the city, or any motor vehicle located in any of the above places after the hour of 10:30 p.m. of any day until the hour of 5:00 a.m. of the following day as herein prohibited.

B. It shall be unlawful for any minor under the age of 19 years to loiter, wander or play in or upon any street, alley, park or public place, any railroad right of way, any place of public entertainment or recreation in the city, or any motor vehicle located in any of the above places after the hour of 1:00 a.m. of any day until the hour of 5:00 a.m. of the same day unless accompanied by a parent or guardian. It shall be unlawful for any parent or guardian of any minor under the age of 19 years to allow or permit such minor to loiter, wander or play in or upon any street, alley, park or public place, any railroad right of way, any place of public entertainment or recreation in the city, or any motor vehicle located in any of the above places after the hour of 1:00 a.m. of any day until the hour of 5:00 a.m. of the same day as herein prohibited.

C. It shall be an affirmative defense to the above prohibitions that said minor child was, at the time of the offense, participating in, or going to or from, a legitimate school or church sponsored activity or legitimate business employment activity.

D. It shall be an affirmative defense by any parent or guardian that they did not know nor would a reasonably responsible parent or guardian have had reason to know that at the time of the offense the minor child was violating the above prohibitions.
(Ord. No. 266, 9/7/89)

SECTION 3-127: LITTERING

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

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

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

1. "Litter" shall include all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state but does not include wastes of primary processes of farming or manufacturing.
2. "Waste material" shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(Neb. Rev. Stat. §§17-123.01, 28-523)

SECTION 3-128: POSTING NOTICES

No person in the city shall fasten any poster or other advertising device in any way upon public or private property in the city unless legally authorized to do so.

SECTION 3-129: POSTED ADVERTISEMENTS

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

SECTION 3-130: OBSTRUCTING WATER FLOW

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe or hydrant.

SECTION 3-131: APPLIANCE OUTDOORS

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

SECTION 3-132: INJURY TO PLANTS AND TREES

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

SECTION 3-133: DISEASED OR DYING TREES

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

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

C. In the event the property owner is a non-resident 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 non-resident property owner, which shall be that address listed on the current tax rolls at the time such re-

quired notice was first published.
(Neb. Rev. Stat. §§18-1720, 28-1321)

SECTION 3-134: PARKS; INJURY TO PROPERTY; LITTERING

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

SECTION 3-135: MALICIOUS DESTRUCTION OF PROPERTY

It shall be unlawful for any person purposely, willfully or maliciously to injure in any manner or destroy any real or personal property of any description belonging to another. (Neb. Rev. Stat. §§17-505, 19-611)

SECTION 3-136: PROHIBITED FENCES

It shall be unlawful for any person to erect or cause to be erected and maintain any barbed wire or electric fence within the corporate limits where such fence abuts a public sidewalk, street, or alley.

SECTION 3-137: HEDGES, VEGETATION OBSTRUCTING VIEW

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

Article 2 – Dogs and Cats

SECTION 3-201: DEFINITIONS

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

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

“Cat” shall mean any animal of the feline family and shall apply to both male and female cats of all ages.

“Dog” shall mean any animal of the canine family and shall apply to both male and female dogs of all ages.

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

(Neb. Rev. Stat. §§54-606, 71-4401) (Ord. No. 223, 3/3/86)

SECTION 3-202: RABIES VACCINATION

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

SECTION 3-203: RABIES CERTIFICATE; LICENSING; FEE

A. Any person who shall own, keep, or harbor a dog or cat over the age of three months within the city shall within 15 days after acquisition of the said animal acquire a license for each animal annually by or before January 1 each year. Application shall be made upon a printed form provided by the city, upon which the owner shall state his or her name and address and the name, breed, color and sex of each dog or cat owned and kept by him or her. A certificate stating that the animal has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. If the dog

or cat has been spayed or neutered, a statement signed by a veterinarian verifying the spaying or neutering must be presented.

B. Upon payment of the license fee for neutered male and spayed female dogs; for neutered male and spayed female cats; for unspayed female cats and non-neutered male cats; and for unspayed female dogs and non-neutered male dogs, as set by resolution of the City Council and kept on file in the city office, the city clerk shall issue to the dog owner a license certificate and a metallic tag for each animal so licensed. The city shall, in addition to the license tax imposed, collect from the licensee a fee of \$1.25. The clerk shall retain 3¢ from the said fee and remit the balance to the state treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The 3¢ collected shall be credited to the general fund along with the license fees.

C. The said dog or cat tax shall be delinquent from and after January 15; provided, the possessor of any dog or cat brought into or harbored within the corporate limits subsequent to January 1 shall be liable for the payment of the animal tax levied herein and such tax shall be delinquent if not paid within 15 days thereafter. There shall be a penalty fee for delinquent licenses to be assessed in addition to the tax and licensing fee provided for herein. Said penalty fee shall be as set by resolution of the City Council and kept on file in the city office. It shall be the duty of the city clerk to issue tags of a suitable design that are different in appearance each year.

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

E. Every service animal shall be licensed but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of a license tax as prescribed herein.
(Neb. Rev. Stat. §§17-526, 54-603) (Ord. No. 223, 3/3/86)

SECTION 3-204: NUMBER ALLOWED

It shall be unlawful to own or harbor more than two dogs or cats over the age of three months on any premises within the city. (Ord. No. 223, 3/3/86)

SECTION 3-205: LOST TAG

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

SECTION 3-206: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper, or harbinger of any dog or cat to permit or allow such dog or cat to wear any license, metallic tag or other city identification than that issued by the city clerk nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unspayed female or non-neutered male dog or cat with a license prescribed for a spayed female or neutered male dog or cat. (Neb. Rev. Stat. §17-526)

SECTION 3-207: RUNNING AT LARGE

It shall be unlawful for the owner of any dog or cat to allow such animal to run at large at any time within the corporate limits of the city. It shall be the duty of the animal control authority to cause any dog or cat found to be running at large within the city to be taken up and impounded. If the animal control authority is unable to capture such dog or cat found running at large but is able to ascertain who is the owner of the dog or cat, a citation shall be issued to the owner. "Running at large" shall mean 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. (Ord. No. 223, 3/3/86)

SECTION 3-208: DAMAGE; LIABILITY OF OWNER

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

SECTION 3-209: BARKING AND OFFENSIVE BEHAVIOR; COMPLAINT

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood or person or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the city. Upon the written complaint of two or more affected persons from different households, filed within any 30-day period with the city clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section, the animal control officer shall investigate the complaint and, if in his or her opinion the situation warrants, shall notify the owner to silence and restrain such dog. The provisions of this section shall not be construed to apply to the city animal shelter. (Neb. Rev. Stat. §17-526) (Ord. No. 223, 3/3/86)

SECTION 3-210: FEMALE IN SEASON

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog or cat

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

SECTION 3-211: FIGHTING

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting or by any gesture or word to encourage the same to fight. (Neb. Rev. Stat. §17-526)

SECTION 3-212: RABIES PROCLAMATION

It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid dogs or cats is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog or cat to muzzle the same or to confine it for a period of not less than 30 days from the date of such proclamation or until such danger is past. The dog or cat may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning, keeping, or harboring any dog or cat to confine the same as herein provided. (Neb. Rev. Stat. §17-526) (Ord. No. 223, 3/3/86)

SECTION 3-213: RABIES SUSPECTED; IMPOUNDMENT

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

SECTION 3-214: DANGEROUS DOGS; DEFINITIONS

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

- A. Has killed or inflicted injury on a human being of public or private property;
- B. Has killed a domestic animal without provocation; or
- C. Has been previously determined to be a potentially dangerous dog by an animal control authority and the owner has received notice of such determination; such

dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

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

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

“Domestic animal” shall mean a cat, a dog, or livestock. “Livestock” includes buffalo, deer, antelope, fowl, and any other animal in any zoo, wildlife park, refuge, wildlife area, or nature center intended to be on exhibit.

“Potentially dangerous dog” shall mean any dog that, when unprovoked;

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

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

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

(Neb. Rev. Stat. §54-617)

SECTION 3-215: DANGEROUS DOGS; CONFINED; WARNING SIGN

While unattended on the owner's property, a dangerous dog shall be securely confined in a humane manner indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least one foot. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. Each warning sign shall be no less than 10 inches

by 12 inches and shall contain the words "Warning" and "Dangerous Animal" in high-contrast lettering at least 3 inches high on a black background. (Neb. Rev. Stat. §54-619)

SECTION 3-216: DANGEROUS DOGS; RESTRAINED

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

SECTION 3-217: DANGEROUS DOGS; FAILURE TO COMPLY

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

SECTION 3-218: DANGEROUS DOGS; VIOLATION; PRIOR CONVICTION

If a dangerous dog belonging to an owner with a prior conviction under this section attacks or bites a person or another domestic animal, the owner shall be guilty of a misdemeanor. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. (Neb. Rev. Stat. §54-624)

SECTION 3-219: DANGEROUS DOGS; ADDITIONAL REGULATIONS

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

SECTION 3-220: IMPOUNDMENT

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

B. Notice of impoundment of all animals, including any significant marks or identification, shall be posted at the office of the city clerk within 24 hours after impoundment as public notification of such impoundment; provided, if the owner of the dog or cat is

known, the clerk may also attempt to personally notify the owner of the impoundment. Any dog or cat may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board as set by resolution of the City Council and kept on file in the city office. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release. Any dog or cat may be reclaimed by its owner during the period of impoundment by payment of the costs of impoundment. If said dog or cat has caused injury to the real or personal property of another or caused physical injury to any person the owner shall be required to make restitution for such damages before the animal shall be released.

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

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

(Neb. Rev. Stat. §17-548) (Ord. No. 223, 3/3/86)

SECTION 3-221: INTERFERENCE WITH ANIMAL CONTROL

It shall be unlawful for any person to hinder, delay, or interfere with any animal control officer who is performing any duty enjoined upon him or her by the provisions of this article or to break open or in any manner directly or indirectly aid, counsel, or advise breaking into the animal shelter or any vehicle used for the collecting or conveying of dogs or cats to the shelter. (Neb. Rev. Stat. §28-906)

Article 3 – Animals Generally

SECTION 3-301: ANIMALS AND FOWLS

It shall be unlawful for any person to permit or suffer any horses, cattle, hogs, sheep, goats or poultry, commonly classed as farm stock, to be in his or her possession or care or within the city limits, except by special permit of the City Council, except that such animals or poultry may be transported through the city or sold through or used in connection with an established livestock market which is under state or federal regulation. (Neb. Rev. Stat. §17-547) (Ord. No. 134, 7/6/71)

SECTION 3-302: RUNNING AT LARGE

It shall be unlawful for the owner, keeper, or harbinger of any animal or any person having the charge, custody, or control thereof to permit a horse, mule, cow, sheep, goat, swine, fowl, or other animal to run at large on any of the public ways and property or upon the property of another or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way. (Neb. Rev. Stat. §17-547)

SECTION 3-303: IMPOUNDMENT

Animals or fowls maintained unlawfully or found running at large within the city shall be captured by the official in charge of animals and impounded in the manner prescribed for dogs and cats in Section 3-220.

SECTION 3-304: ENCLOSURES

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

SECTION 3-305: WILD ANIMALS

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

SECTION 3-306: RABIES SUSPECTED; CAPTURE IMPOSSIBLE

The animal control authority as defined in Article 2 herein shall have the authority to kill any animal showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved. (Neb. Rev. Stat. §71-4406) (Ord. No. 223, 3/3/86)

Article 4 – Nuisances

SECTION 3-401: PUBLIC NUISANCES PROHIBITED

It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the city to keep such real estate free of public nuisances. (Neb. Rev. Stat. §§17-207, 18-1720) (Ord. No. 276, 10/2/90)

SECTION 3-402: GENERALLY DEFINED

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

- A. Injures or endangers the comfort, repose, health or safety of others,
 - B. Offends decency,
 - C. Is offensive to the senses,
 - D. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the city,
 - E. In any way renders other persons insecure in life or the use of property, or
 - F. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (Neb. Rev. Stat. §18-1720)

SECTION 3-403: SPECIFICALLY DEFINED

The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things are hereby declared to be nuisances. These sections shall not apply to businesses licensed or zoned for business operations that include the accumulation of material described in these sections, such as auto salvage yard, recycling operations, and similar businesses. (Ord. No. 247, 5/3/88)

- A. Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, vegetable matter or the whole or any part of any dead animal, fish or fowl.
- B. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats or which are foul or malodorous.
- C. Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.

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

E. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the city nor the dumping of non-putrefying waste in a place and manner approved by the health officer.

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

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

H. Any buildings or structures which have any or all of the defects defined at Section 3-501 hereafter.

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

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

K. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.

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

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

owner, tenant, occupant, lessee, or otherwise, to allow any vehicle which has been unregistered for more than 30 days to remain on such property. This section shall not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the lawful operation of such business enterprise, a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, or a vehicle on the premises of a person who has obtained a hobbyist permit which is then in effect for the restoration of said vehicle, as provided in subsection (2) below.

2. A hobbyist permit for the restoration or repair of up to two non-operating, wrecked, junked, or partially dismantled vehicles on any premises used for residential purposes may be granted to the resident of such premises as follows:

a. Application for a hobbyist permit shall be filed in writing with the city clerk on a form provided by the city and shall contain the name and address of the applicant and the make, model, year, and vehicle identification number on each vehicle to be restored or repaired. The vehicle(s) to be restored or repaired shall be owned by the applicant.

b. The fee for such hobbyist permit shall be as set by the City Council by resolution and placed on file in the office of the city clerk. All such permits shall expire one year following the date of issuance thereof.

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

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

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

P. Maintenance of weeds, grasses or worthless vegetation of 12 inches or more in height. Weeds shall include, but not be limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*So-*

lanum carolinense), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

Q. All other things specifically designated as nuisances elsewhere in this code. (Neb. Rev. Stat. §18-1720) (Ord. Nos. 247, 5/3/88; 275, 10/2/90; 276, 10/2/90; 93-09, 8/2/93; 2003-09, 11/6/03; 2004-02, 3/2/04)

SECTION 3-404: NOTICE PROCEDURE; ABATEMENT

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

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

graph the weeds or nuisance to document that abatement has not occurred.

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

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

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

(Ord. Nos. 247, 5/3/88; 276, 10/2/90; 93-09, 8/2/93; 2003-09, 11/6/03)

SECTION 3-405: SECOND OFFENSE

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

SECTION 3-406: JURISDICTION

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

SECTION 3-407: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

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

Article 5 – Dangerous Buildings

SECTION 3-501: DETERMINATION AND DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

(Neb. Rev. Stat. §18-1720)

SECTION 3-502: BUILDING INSPECTOR

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

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

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

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

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

SECTION 3-503: STANDARDS

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

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

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

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

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

SECTION 3-504: UNLAWFUL MAINTENANCE

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

SECTION 3-505: NUISANCE; PROCEDURE

If the building inspector finds that a building or structure is unsafe or dangerous and a nuisance, the City Council shall:

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

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

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

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

(Neb. Rev. Stat. §18-1722.01)

SECTION 3-506: FAILURE TO COMPLY

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure shall fail, neglect or refuse to comply with the notice by or on behalf of the city to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, and fails to request a hearing on such determination, the city may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the City Council, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. (Neb. Rev. Stat. §18-1722)

SECTION 3-507: DISPUTES

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

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

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

SECTION 3-508: APPEAL

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

SECTION 3-509: IMMEDIATE HAZARD

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

Article 6 – Penal Provisions

SECTION 3-601: VIOLATION; PENALTY

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

SECTION 3-602: ABATEMENT OF NUISANCE

Whenever a nuisance exists as defined in this chapter, the city may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Neb. Rev. Stat. §§18-1720, 18-1722)