

## **TITLE IX: GENERAL REGULATIONS**

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## CHAPTER 90: ANIMALS

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**GENERAL PROVISIONS****§ 90.01 DEFINITIONS.**

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

**CAT.** A cat which is a household pet.

**DEPARTMENT.** The State Department of Health and Human Services.

**DOMESTIC ANIMAL.** Any dog of the species *Canis familiaris*, cat of the species *Felis domesticus*, or ferret of the species *Mustela putorius furo*.

**HYBRID ANIMAL.** Any animal which is the product of the breeding of a domestic dog with a nondomestic canine species.

**OWN.** To possess, keep, harbor, or have control of, charge of, or custody of a domestic or hybrid animal. This term does not apply to domestic or hybrid animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than 30 days.

**OWNER.** Any person possessing, keeping, harboring, or having, charge or control of any domestic or hybrid animal or permitting any domestic or hybrid animal to habitually be or remain on or be lodged or fed within the person's house, yard, or premises. This term does not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic or hybrid animals owned by other persons for a period of not more than 30 days.

**RABIES CONTROL AUTHORITY.** City health and law enforcement officials who shall enforce the provisions of this subchapter relating to the vaccination and impoundment of domestic or hybrid animals. Such public officials shall not be responsible for any accident or disease of a domestic or hybrid animal resulting from the enforcement of such sections.

**VACCINATION AGAINST RABIES.** The inoculation of a domestic or hybrid animal with a United States Department of Agriculture-licensed rabies vaccine administered consistent with its labeling. The vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska or licensed in the state where the vaccination was administered.

(1976 Code, § 6-101) (Ord. 1114, passed 8-8-1994; Ord. 1230, passed 3-24-1997; Ord. 1240, passed 10-6-1997; Ord. 1401, passed 1-7-2008; Ord. 1483A, passed 12-23-2019)

**Statutory reference:**

*Related provisions, see Neb. RS 71-4401*

**§ 90.02 RABIES VACCINATION.***(A) Vaccination required; cost; exemptions.*

(1) Every domestic animal in the city shall be vaccinated against rabies with a licensed vaccine and revaccinated at intervals specified by rules and regulations adopted and promulgated by the Department. Young domestic animals shall be initially vaccinated at the age specified in the rules and regulations. Unvaccinated domestic animals acquired or moved into the city shall be vaccinated within 30 days after purchase or arrival unless under the age for initial vaccination.

(2) (a) Except as provided in division (A)(2)(c) below, every hybrid animal in the city shall be vaccinated against rabies and shall be revaccinated at intervals specified by rules and regulations adopted and promulgated by the Department. A young hybrid animal shall be initially vaccinated at the age specified in such rules and regulations. An unvaccinated hybrid animal acquired or moved into the city shall be vaccinated within 30 after purchase or arrival unless under the age for initial vaccination.

(b) The rabies vaccine used to vaccinate a hybrid animal pursuant to this division (A) shall be sold only to licensed veterinarians.

(c) An owner of a hybrid animal in the city prior to the date of development of a licensed vaccine determined scientifically to be reliable in preventing rabies in a hybrid animal shall have one year after such date to comply with this section.

(3) The cost of rabies vaccination shall be borne by the owner of the domestic or hybrid animal.

(4) (a) The provisions of this subchapter with respect to vaccination shall not apply to any domestic or hybrid animal owned by a person temporarily remaining within the city for less than 30 days, to any domestic or hybrid animal brought into the city for field trial or show purposes, or to any domestic or hybrid animal brought into the city for hunting purposes for a period of less than 30 days. Such domestic or hybrid animals shall be kept under strict supervision of the owner. It shall be unlawful to bring any domestic or hybrid animal into the city which does not comply with the animal health laws and import rules and regulations of the state which are applicable to domestic or hybrid animals.

(b) Domestic or hybrid animals assigned to a research institution or a similar facility shall be exempt from this subchapter.

(1976 Code, § 6-103)

*(B) Rabies vaccination certificates and tags.*

(1) It shall be the duty of each veterinarian, at the time of vaccinating any animal, to complete a certificate of rabies vaccination which shall include, but not be limited to, the following information:

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- (a) The owner's name and address;
  - (b) An adequate description of the animal including, but not limited to, such items as the animal's breed, sex, age, name and distinctive markings;
  - (c) The date of vaccination;
  - (d) The rabies vaccination tag number;
  - (e) The type of rabies vaccine administered; and
  - (f) The manufacturer's serial number of the vaccine used.
- (2) Such veterinarian shall issue a tag with the certificate of vaccination.
- (3) The cost of the rabies vaccination shall be borne by the owner of the animal.  
(1976 Code, § 6-104)

(C) *Rabies suspected.*

(1) (a) Any dog suspected of being afflicted with rabies, or any dog not vaccinated in accordance with the provisions of this subchapter, which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Police Department for a period of not less than ten days.

(b) If, upon examination by a veterinarian, the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner, or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the dog shall be examined by a licensed veterinarian. If no signs of rabies are observed, the dog may be released from confinement.

(2) If the ownership of any animal which has bitten a person can be established, the owner shall be liable for the cost of confining for such length of time as is necessary to establish whether the animal is rabid. If the ownership of such animal cannot be determined, the person bitten shall be liable for the cost of so confining it. The cost of confining an animal whose ownership cannot be determined and is only suspected of having rabies, shall be paid by the municipality.

(3) All costs incurred in the collection, submission and sending to the Department of Health, of heads of animals that have or are suspected of dying from rabies, shall be borne by the owner of such animal if the ownership thereof can be established. If ownership of such animal cannot be determined, then the person bitten by the animal shall be liable for the cost of collection, submission and sending the

head to the Department of Health. The cost of sending the head of an animal whose ownership cannot be determined, which has not bitten any persons and is only suspected of having rabies, shall be paid by the municipality.

(D) *Domestic or hybrid animal or livestock; post-exposure management.* Domestic or hybrid animals or livestock known to have been exposed to a confirmed or suspected rabid animal shall be subjected to post-exposure management as provided in rules and regulations adopted and promulgated by the department.

(1976 Code, § 6-113) (Ord. 1230, passed 3-24-1997; Ord. 1395, passed 6-4-2007; Ord. 1401, passed 1-7-2008; Ord. 1483A, passed 12-23-2019) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 71-4402, 71-4404, 71-4405, 71-4406, 71-4407*

**§ 90.03 LICENSE AND TAX REQUIRED; EXEMPTIONS; TAGS.**

(A) (1) Any owner of a dog over the age of six months within the municipality shall, within 30 days after acquisition of the dog, acquire a license for the dog. annually by or before the January 1 of each year. Licenses shall be issued by the City Clerk upon payment of a license tax in the amount established by the governing body, plus the \$1.25 fee required under Neb. RS 54-603(3). It shall be unlawful for the owner of a dog to wrongfully and knowingly license an unsprayed female dog as a male or spayed female dog if the governing body has established different license taxes for such dogs.

(2) The tax shall be delinquent from and after May 10. The owner of any dog brought into or harbored within the corporate limits subsequent to May 1 of any year shall be liable for payment of the dog tax, and such tax shall be delinquent if not paid within ten days thereafter. The license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed dog.

(3) The owner shall state, at the time the application is made and upon printed forms provided for such purpose, his or her name and address and the name, breed, color and sex of each dog owned by him or her. A certificate of rabies vaccination, effective for the ensuing year of the license, shall be presented when application for a license is made, and no license or tag shall be issued until the certificate is shown.

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

(5) (a) Upon the payment of the license tax, the Clerk shall issue to the owner of the dog a license certificate and a metallic tag, which shall be valid until April 30 following such licensing. The Clerk shall issue tags of a suitable design that rare different in appearance each year.

(b) The metallic tag and the rabies tag shall be properly attached to the collar or harness of the dog. It shall be unlawful for the owner of any dog to permit or allow such dog to wear any licensing identification other than the metallic tag issued by the Clerk.

(c) If a license tag is lost, upon satisfactory evidence that the original tag was issued in accordance with the provisions of this section, the 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 established by the governing body for each duplicate or new tag so issued.

(6) All license taxes, fees and other collections shall be credited to the General Fund of the city, except as otherwise provided by Neb. RS 54-603.  
(1976 Code, § 6-105)

(B) No owner, keeper or harbinger of any dog shall permit or allow such dog to wear any other license metallic tag than the original tag or duplicate tag issued by the City Clerk for such dog and for the period of the licensing year hereinbefore mentioned, nor shall the owner, keeper or harbinger wrongfully and knowingly license a male dog or barren female and use a tag received therefor for an unspayed or intact female dog.

(1976 Code, § 6-106)

(Ord. 1114, passed 8-8-1994; Ord. 1116, passed 12-5-1994; Ord. 1418, passed 12-20-2010; Ord. 1461, passed 2-8-2016) Penalty, see § 90.99

***Statutory reference:***

*Related provisions, see Neb. RS 54-603*

**§ 90.04 ANIMALS RUNNING AT LARGE.**

Any licensed or unlicensed animal found running at large within the municipality shall be seized by any police officer or other officer designated by the Mayor and Council and said animal shall be held in the municipal animal shelter until claimed by the owner or destroyed as provided in § 90.05(A) of this chapter. It shall be unlawful for the owner, keeper or harbinger of any animal regardless of age or sex to permit such animal to run at large within the corporate limits of the municipality.

(1976 Code, § 6-107) Penalty, see § 90.99

**§ 90.05 IMPOUNDING; AUTHORITY TO KILL.**

(A) *General.* It shall be the duty of the municipal police to capture, secure and remove in a humane manner to the municipal animal shelter any dog violating any of the provisions of this subchapter. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not less than five days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the Municipal Clerk within 24 hours after impoundment as public notification of such impoundment. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the governing body and on file in the office of the Municipal Clerk. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release. If the dog is not claimed at

the end of required waiting period after public notice has been given, the municipal police may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided that, if, in the judgment of the municipal police, a suitable home can be found for any such dog within the municipality, the said dog 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 subchapter. The municipality shall acquire legal title to any unlicensed dog impounded in the animal shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such dog.

(1976 Code, § 6-108)

(B) *Interference with pound authorities.* It shall be unlawful for any person to hinder, delay, interfere with or obstruct the police or any assistants while performing said duty enjoined upon him, her or them by the provisions of this subchapter or while engaged in the capturing, securing or taking to the animal shelter, any animal subject to be impounded. In such a case, none of these officials shall be responsible for any accident or disease of any animal resulting from the enforcement of the provisions of this subchapter.

(1976 Code, § 6-109)

(C) *Destruction; abandonment.* Any person who owns, harbors or in any way sustains an animal that he or she wishes to be destroyed may place the same in the animal shelter to be destroyed and disposed of according to the provisions contained in this subchapter. Any animal which is abandoned shall be placed in the municipal animal shelter for a period of not less than five days after public notice has been given, unless reclaimed earlier by the owner. Notice of impoundment of all abandoned animals shall be given in a manner as prescribed in division (A) above and said abandoned animals shall be destroyed and buried as provided in said section.

(1976 Code, § 6-110)

(D) *Unlawful tampering with pound.*

(1) No person, except authorized personnel, shall open or attempt to open or in any manner tamper with any padlock or other device securing any enclosure owned or operated by the municipality; nor shall any unauthorized person be allowed to break open or in any manner directly or indirectly to aid, counsel or advise the breaking open of any animal shelter, or any other vehicle used for collecting, or conveying of animals to the shelter.

(2) It shall be unlawful for any unauthorized person to cut, saw, break, bend or in any manner damage or destroy any enclosure for animals owned or operated by the municipality.

(3) No person, except authorized personnel, shall remove or attempt to remove any animal kept or harbored in any enclosure for animals owned or operated by the municipality.

(1976 Code, § 6-114)

(E) *Capture impossible*. The municipal 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.

(1976 Code, § 6-122)

(Ord. 641, passed 5-10-1980; Ord. 670, passed 9-17-1981; Ord. 1373, passed 1-24-2005; Ord. 1395, passed 2-4-2007) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-548, 54-605, 71-4408*

### **§ 90.06 VICIOUS ANIMALS.**

It shall be unlawful for any person to own, keep or harbor, within the corporate limits of the municipality, or within territory adjacent to the corporate limits within one mile thereof, any dangerous or ferocious animal which habitually snaps or manifests a disposition to bite, or commits injury to persons or property, or is offensive or unhealthy. If any vicious or dangerous animal is allowed to run at large within said area, the municipal police shall have the authority to put the said animal to death. If any animal bites or injures any person, or kills a domesticated animal, while said animal is outside the boundaries of the property occupied by its owner, the court shall as part of any judgment of conviction for either animal running at large or vicious animal order that said animal shall be destroyed. The cost of destroying said animal shall be the obligation of the owner. At the direction of the police, said animal can be placed in the municipal animal shelter pending determination of the court proceeding instituted pursuant to this provision and the costs of any placement shall be borne by the owner.

(1976 Code, § 6-111) (Ord. 896, passed 5-5-1986; Ord. 1395, passed 6-4-2007; Ord. 1400, passed 12-17-2007) Penalty, see § 90.99

### **§ 90.07 PROCLAMATION OF DANGEROUS ANIMAL.**

(A) It shall be the duty of the Police Department whenever, in its opinion, the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping or harboring any dog to muzzle the same, or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation, or until such danger is passed.

(B) The dogs may be harbored by any good and sufficient means in a house, garage or yard on the premise wherein the said owner may reside.

(C) Upon issuing the proclamation, it shall be the duty of all persons owning, keeping or harboring any dog to confine the same, as herein provided.

(1976 Code, § 6-112) (Ord. 1395, passed 6-4-2007) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-526*

**§ 90.08 BARKING AND OFFENSIVE ANIMALS.**

(A) It shall be unlawful and shall constitute a nuisance for any person to own, keep or harbor any animal which, by loud, continued or frequent barking, howling or yelping, shall annoy or disturb any person or neighborhood, or which habitually barks at or chases persons or vehicles while they are on any public sidewalks, streets or alleys in the municipality.

(B) The provisions of this section shall not be construed to apply to the municipal animal shelter. (1976 Code, § 6-115) (Ord. 1026, passed 1-21-1991; Ord. 1101, passed 11-8-1993) Penalty, see § 90.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-526*

**§ 90.09 FIGHTING ANIMALS; PITTING.**

(A) *Fighting.* It shall be unlawful for any person, by agreement or otherwise, to set animals to fighting or by any gesture or word to encourage the same to fight. (1976 Code, § 6-116)

(B) *Pitting; definitions.*

(1) For the purpose of this division (B), 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. (1976 Code, § 6-123)

(2) (a) No person shall knowingly:

1. Promote, engage in or be employed at dogfighting, cockfighting, bearbaiting or pitting an animal against another;

2. Receive money for the admission of another person to a place kept for such purpose;

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3. Own, use, train, sell or possess an animal for such purposes; and

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

(b) 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 this division (B).

(c) No person shall knowingly or intentionally own or possess animal fighting paraphernalia with the intent to commit a violation of this division (B).

1. For purposes 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 this division (B). ***ANIMAL FIGHTING PARAPHERNALIA*** includes, but is not limited to, the following:

a. 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;

b. 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;

c. A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing place;

d. A fighting pit, which means a walled area designed to contain an animal fight;

e. 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;

f. A heel, which means any edged or pointed instrument designed to be attached to the leg of a fowl;

g. A boxing glove or muff, which means a fitted protective covering for the spurs of a fowl; and

h. Any other instrument commonly used in the furtherance of pitting an animal against another.

2. **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 the state.

(1976 Code, § 6-124)

(Ord. 957, passed 9-26-1988; Ord. 1019, passed 1-21-1991; Ord. 1418, passed 12-20-2010) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 28-1004, 28-1005*

**§ 90.10 LIABILITY OF OWNER.**

It shall be unlawful for any person to allow a animal 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 animal, 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.

(1976 Code, § 6-117) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 54-601, 54-602*

**§ 90.11 ANIMALS BANNED FROM MUNICIPALITY.**

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine, llama, ostrich, alpaca, emu or other livestock, any chicken, turkey, peacock, guinea, duck, goose, pigeon or other fowl, any snake, lizard or other large reptile.

(1976 Code, § 6-118) (Ord. 1413, passed 4-19-2010) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-547*

**§ 90.12 CRUELTY; KILLING AND INJURING.**

(A) No person shall cruelly or unnecessarily beat, abuse, overwork or insufficiently shelter, feed or water any animal within the municipality. If there has been a previous conviction pursuant to this section, the person so convicted shall be prohibited from owning, possessing, keeping, harboring or having control of, charge of or custody of any animal from and after the date of that conviction. If said person violates said prohibition, law enforcement shall be permitted to enter upon the real estate of the person so violating and deliver the animal or animals in question to the municipal animal shelter. All costs for boarding the animal or animals and for the placement or destruction of the animal or animals shall be borne by and shall be the responsibility of the person in violation of this section.

(1976 Code, § 6-119)

(B) No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the said animal.

(1976 Code, § 6-120)

(Ord. 1389, passed 6-19-2006; Ord. 1411, passed 11-23-2009) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 28-552, 28-553*

**§ 90.13 ANIMAL ENCLOSURES.**

(A) It shall be unlawful for any person owning, keeping or harboring any animal to fail, refuse or neglect to provide such animal with adequate food, water, shade, shelter, living environment or veterinarian care as may be necessary for diseased or injured animals. Any animal habitually kept outside or repeatedly left unattended outside shall be provided with a structurally sound, moisture-proof and wind-proof shelter large enough to accommodate and keep the animal reasonably clean, dry and comfortable.

(B) **ADEQUATE FOOD, WATER, SHADE, SHELTER, LIVING ENVIRONMENT AND CARE** shall mean:

(1) Each animal at suitable intervals, at least every 24 hours, receive a quantity of wholesome food sufficient to maintain an adequate level of nutrition for the animal;

(2) Each animal shall at all times have access to an adequate supply of clean, fresh water and such water shall be provided either free flowing or in a receptacle. Snow or ice shall not be considered an acceptable water source. If water pans or dishes are used, such pans or dishes shall have weighted bottoms or be mounted or secured in a manner that prevents tipping; and

(3) Each animal shall have convenient access to adequate shelter throughout the year. Any artificial shelter shall be structurally sound and maintained in good repair to protect the animal from injury and from the elements, and shall be of sufficient size to permit the animal to enter, stand, turn around and lie down in a natural manner. Any shelter which is not protecting the animal from temperature extremes, or precipitation, or which does not provide adequate ventilation or drainage does not comply with this section. The shelter and any other spaces accessible to the animal and all bedding for the animal shall be maintained in a manner which minimizes the risk to the animal of contracting disease, being injured or becoming infested with parasites.

(1976 Code, § 6-121) (Ord. 1413, passed 4-19-2010) Penalty, see § 90.99

**§ 90.14 ABANDONMENT, NEGLECT AND MISTREATMENT.**

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

**ABANDON.** To leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water or other care as is reasonably necessary for the animal's health.

**ANIMAL.** Any vertebrate member of the animal kingdom. **ANIMAL** does not include an uncaptured wild creature or a livestock animal, as defined in this section.

**BOVINE.** A cow, an ox or a bison.

**CRUELLY MISTREAT.** To knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, bum, scald, otherwise inflict harm upon any animal.

**CRUELLY NEGLECT.** To fail to provide any animal in one's care, whether as owner or custodian, with food, water or other care as is reasonably necessary for the animal's health.

**HUMANE KILLING.** The destruction of an animal by a method which causes the animal a minimum of pain and suffering.

**LAW ENFORCEMENT OFFICER.** Any member of the State Patrol, any County or Deputy Sheriff, any member of the police force of the municipality or any other city or village, or any other public official authorized by the municipality or any other city or village to enforce state or local animal control laws, rules, regulations or ordinances. **LAW ENFORCEMENT OFFICER** also includes a special investigator appointed as a deputy state sheriff as authorized pursuant to Neb. RS 81-201 while acting within the authority of the Director of Agriculture.

**LIVESTOCK ANIMAL.** Any bovine, equine, swine, sheep, goats, domesticated corvine animals, ratite birds or poultry.

**OWNER** or **CUSTODIAN.** Any person owning, keeping, possessing, harboring or knowingly permitting an animal to remain on or about any premises owned or occupied by such person.

**POLICE ANIMAL.** A horse or dog owned or controlled by the state or any county, city or village for the purpose of assisting a law enforcement officer in the performance of his or her official enforcement duties.

(1976 Code, § 6-131)

(B) *Enforcement powers; immunity.*

(1) A law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for or impound the animal.

(2) A law enforcement office who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner or custodian as prescribed in Neb. RS 29-422 to 29-429.

(3) Any law enforcement office acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.  
(1976 Code, § 6-132)

(C) *Violation.*

(1) A person who intentionally, knowingly or recklessly abandons, cruelly neglects or cruelly mistreats an animal is guilty of an offense.

(2) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate or harm the police animal for the purpose preventing such animal from performing its legitimate official duties.

(1976 Code, § 6-133)

(Ord. 1018, passed 1-21-1991; Ord. 1418, passed 12-20-2010; Ord. 1433A, passed 1-7-2013; Ord. 1461, passed 2-8-2016; Ord. 1468, passed 2-16-2017) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 28-1008, 28-1009, 28-1012*

**§ 90.15 EQUINES AND BOVINES.**

(A) (1) No person shall intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice or contest.

(2) The intentional tripping or causing to fall, or lassoing or roping the legs of, any equine by any means for the purpose of entertainment, sport, practice or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing or pulling contests.

(B) (1) No person shall intentionally trip, cause to fall or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice or contest.

(2) The intentional tripping, causing to fall or dragging of any bovine by its tail by any means for the purpose of entertainment, sport, practice or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing or pulling contests.

(1976 Code, § 6-134) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 28-1009.02, 28-1009.03, 28-1013.01, 28-1013.02*

**§ 90.16 RESTRICTIONS ON OWNING, KEEPING OR HARBORING.**

(A) No person, who shall have been convicted at anytime of a violation of §§ 90.09(A) and (C) and 90.12 of this chapter, shall be allowed to own, keep or harbor any animal within the city limits.

(B) Any person violating this section shall be guilty of a new violation hereof every 24 hours. (1976 Code, § 6-135) (Ord. 1433B, passed 2-18-2013) Penalty, see § 90.99

### ***DANGEROUS DOGS***

#### **§ 90.30 DEFINITIONS.**

For the purpose of this subchapter, 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 and includes any local law enforcement agency or other agency designated by the city to enforce the animal control laws of the city.

***ANIMAL CONTROL OFFICER.*** 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.

***DANGEROUS DOG.*** Any dog that, according to the records of an animal control authority of the city, which:

- (1) Has killed a human being;
- (2) Has inflicted injury on a human being that requires medical treatment;
- (3) Has killed a domestic animal without provocation;
- (4) Has been previously determined to be a potentially dangerous dog by an animal control authority, the owner has received notice of such determination from an animal control authority or an animal control officer and such dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals;
- (5) The dog shall not be defined as a ***DANGEROUS DOG*** if the individual was tormenting, abusing or assaulting the dog at the time of the injury or has, in the past, been observed or reported to have tormented, abused or assaulted the dog;
- (6) A dog shall not be defined as a ***DANGEROUS DOG*** if the injury, damage or threat was sustained by an individual who, at the time, was committing a willful trespass as defined in Neb. RS 20-203, 28-520 or 28-521 RS Neb. was committing any other tort upon the property of the owner of the

dog, was tormenting, abusing or assaulting the dog, or has, in the past, been observed or reported to have tormented, abused or assaulted the dog, or was committing or attempting to commit a crime; and

(7) A dog shall not be defined as a ***DANGEROUS DOG*** if the dog is a police animal, as defined in Neb. RS 28-1008.

***DOMESTIC ANIMAL.***

(1) A cat, a dog or livestock.

(2) 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.

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

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

***POTENTIALLY DANGEROUS DOG.***

(1) Any dog that when unprovoked;

(a) Inflicts an injury on a human being that does not require medical treatment;

(b) Injures a domestic animal; or

(c) Chases or approaches a person upon streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack.

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

(1976 Code, § 6-126) (Ord. 992, passed 12-18-1989)

***Statutory reference:***

*Related provisions, see Neb. RS 54-617*

**§ 90.31 RESTRAINT REQUIRED.**

(A) (1) A dangerous dog that has been declared as such shall be spayed or neutered and implanted with a microchip identification number by a licensed veterinarian within 30 days after such declaration.

(2) The cost of both procedures is the responsibility of the owner of the dangerous dog.

(3) Written proof of both procedures and the microchip identification number shall be provided to the animal control authority after the procedures are completed.

(B) No owner of a dangerous dog shall permit the dog to be outside of the required secured enclosure or fencing unless the dog is restrained by a chain or leash of sufficient strength to control the dog and the dog is muzzled in such a manner as to prevent it from biting or injuring any person or animal.

(C) Except as provided in division (D) below or for a reasonable veterinary purpose, no owner of a dangerous dog shall transport such dog or permit such dog to be transported to another county, city or village in the state.

(D) (1) An owner of a dangerous dog may transport such dog or permit such dog to be transported to another county, city or village in the state for the purpose of permanent relocation of the owner if the owner has obtained written permission prior to such relocation from the animal control authority of the county, city or village in which the owner resides and from the county, city or village in which the owner will reside. Each animal control authority may grant such permission based upon a reasonable evaluation of both the owner and the dog, including if the owner has complied with the laws of the state and of the county, city or village in which he or she resides with regard to dangerous dogs after the dog was declared dangerous.

(2) An animal control authority shall not grant permission under this section if the county, city or village has an ordinance or resolution prohibiting the relocation of dangerous dogs. After the permanent relocation, the animal control authority of the county, city or village in which the owner resides shall monitor the owner and such dog for a period of at least 30 days, but not to exceed 90 days, to ensure the owner's compliance with the laws of the state and of such county, city or village with regard to dangerous dogs.

(3) Nothing in this division (D) shall permit the rescindment of the declaration of dangerous dog.

(1976 Code, § 6-127) (Ord. 992, passed 12-18-1989; Ord. 1491, passed 8-24-2020) Penalty, see § 90.99

***Statutory reference:***

*Related provisions, see Neb. RS 54-618*

**§ 90.32 CONFINEMENT REQUIRED.**

(A) No person, firm, partnership, limited liability company or corporation shall own, keep or harbor or allow to be in or on any premises occupied by him, her or it or under his, her or its charge or control any dangerous dog without such dog being confined so as to protect the public from injury.

(B) (1) While unattended on the owner's property, a dangerous dog shall be securely confined, in a humane manner, indoors, outdoors in an area bounded by a secure fence at least six feet high with an

impenetrable base embedded into the ground at a depth of at least one foot and all gates locked, or outdoors 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 be at least ten feet from any property line of the owner. The pen or structure shall also protect the dog from the elements, including a roof which protects the animal from sun and inclement weather. As an alternative to this protective roof, a shelter or dog house may be placed within the confinement area.

(2) The owner of a dangerous dog shall post warning signs on the property where the dog is kept that are clearly visible from all areas of public access and that inform persons that a dangerous dog is on the property. Each warning sign shall be no less than ten inches by 12 inches and shall contain the words warning and dangerous animal in high-contrast lettering at least three inches high on a black background.

(1976 Code, § 6-128) (Ord. 992, passed 12-18-1989; Ord. 1491, passed 8-24-2020) Penalty, see § 90.99

***Statutory reference:***

*Related provisions, see Neb. RS 54-619*

**§ 90.33 FAILURE TO COMPLY.**

(A) (1) Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this section.

(2) 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 section.

(B) 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.

(C) (1) Any owner whose dangerous dog inflicts on a human being a serious bodily injury, as defined in Neb. RS 28-109, is guilty of a Class I misdemeanor for the first offense, whether or not the same dangerous dog is involved.

(2) It is a defense to a violation of division (C)(1) above that the dangerous dog was, at the time of the infliction of the serious bodily injury, in the custody of or under the direct control of a person other than the owner or the owner's immediate family.

(D) If a dangerous dog of an owner with a prior conviction under this section attacks or bites a human being or domestic animal, in addition to any other penalty, 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.

(1976 Code, § 6-129) (Ord. 992, passed 12-18-1989) Penalty, see § 90.99

***Statutory reference:***

*Related provisions, see Neb. RS 54-620, 54-621, 54-622.01, 54-623*

**§ 90.34 ADDITIONAL REGULATIONS.**

Nothing in this subchapter shall be construed to restrict or prohibit any governing body of the city from establishing and enforcing laws or ordinances at least as stringent as the provisions of this subchapter.

(1976 Code, § 6-130) (Ord. 992, passed 12-18-1989)

***Statutory reference:***

*Related provisions, see Neb. RS 54-624*

**§ 90.99 PENALTY.**

***(A) Violation; penalty.***

(1) 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 for each offense.

(2) A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1976 Code, § 6-401)

***(B) Abatement of nuisance.***

(1) Whenever a nuisance exists, as defined in this chapter, the municipality 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 a part of the judgment in the case.

(1976 Code, § 6-402)

***(C) Violation of specific ordinances; penalty.***

(1) Any person who shall violate § 90.14(C) of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined as follows:

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- (a) First violation: \$100;
- (b) Second violation: \$250; and
- (c) Third and all subsequent violations: \$500.

(2) A new violation shall deem to have been committed every 24 hours of such failure to comply.

(1976 Code, § 6-403)

(Ord. 1372, passed 1-24-2005; Ord. 1449, passed 12-23-2013)

***Statutory reference:***

*Related provisions, see Neb. RS 18-1720, 18-1722*

## CHAPTER 91: HEALTH AND SANITATION; NUISANCES

### Section

#### *General Provisions*

- 91.01 General health and safety regulations
- 91.02 Enforcement official; County Health Board
- 91.03 State rules

#### *Nuisances*

- 91.15 General provisions
- 91.16 Abatement services and notice procedure
- 91.17 Enforcement
- 91.18 Expenses

#### ***Cross-reference:***

*Animals, see Ch. 90*

*Planning and Zoning, see Ch. 154*

*Streets, Sidewalks and Public Property, see Ch. 151*

### **GENERAL PROVISIONS**

#### **§ 91.01 GENERAL HEALTH AND SAFETY REGULATIONS.**

For the purpose of promoting the health and safety of the residents of the municipality, 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. (1976 Code, § 4-101)

#### ***Statutory reference:***

*Related provisions, see Neb. RS 17-121*

### § 91.02 ENFORCEMENT OFFICIAL; COUNTY HEALTH BOARD.

(A) The Police Chief, as the Quarantine Officer, shall be the Chief Health Enforcement Officer of the municipality. It shall be his or her duty to notify the governing body and the Board of Health of health nuisances within the municipality and its zoning jurisdiction.

(1976 Code, § 4-102)

(B) It shall be the duty of the Board of Health to work closely with the county's Health Board in protecting the health and welfare of the residents of the municipality.

(1976 Code, § 4-104) (Ord. 1024, passed 1-21-1991)

***Statutory reference:***

*Related provisions, see Neb. RS 17-121*

### § 91.03 STATE RULES.

The "Rules and Regulations Relating to Public Health", Department of Health of the state are hereby incorporated by reference when the same are applicable to the municipality, in their present form and as they may hereafter be amended. Three copies of the said pamphlet are filed at the office of the Municipal Clerk and shall be available for public inspection at any reasonable time.

(1976 Code, § 4-103)

***Statutory reference:***

*Related provisions, see Neb. RS 18-132, 19-902*

## ***NUISANCES***

### § 91.15 GENERAL PROVISIONS.

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

(B) *Nuisance defined.*

(1) 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:

(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 municipality;

(e) In any way renders other persons insecure in life or the use of property;

(f) Essentially interferes with the comfortable enjoyment of life and property; or

(g) Tends to depreciate the value of the property of others.

(2) *NUISANCE* includes, but is not limited to, the maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things:

(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) The emission of smoke, dust, fumes, gases, mists, odors, or polluted air from any source that is injurious or dangerous to human health and safety;

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

(d) 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;

(e) Dead animals or dead animals buried within the corporate limits;

(f) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the municipality;

(g) Hauling any garbage, waste, or refuse matter through the streets, alleys, and public ways except when the same is loaded and conveyed in such a way that none of the contents shall be spilled;

(h) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable, or animal matter in any quantity. Nothing herein contained shall prevent the temporary retention of waste in receptacles nor the dumping of non-putrefying waste in a place and manner approved by the municipality;

(i) 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;

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

(k) Any unsafe building, unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are a fire hazard, or a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity;

(l) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;

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

(n) Dead or diseased trees within the right-of-way of streets within the corporate limits of the city, or on private property within the one mile zoning jurisdiction beyond the corporate limits;

(o) Undrained lots which hold or may hold stagnant water or any other nuisance;

(p) Any condition which allows the perpetuating of insects and rodents;

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

(r) Any vehicle which is not properly registered, or is inoperable, wrecked, junked, or partially dismantled and remaining longer than 30 days on private property. This does not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the lawful operation of such business enterprise (such as a licensed

salvage dealer, motor vehicle dealer or farm implement dealer), or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, and so long as the premises in which said vehicle is located is not a nuisance and is maintained in a healthful and safe condition, or one vehicle stored under a manufactured car cover. **VEHICLE** means the same as defined by Neb. RS 60-136: a motor vehicle, all-terrain vehicle, minibike, trailer, or semi-trailer. **PROPERLY REGISTERED** means as required by Nebraska statutes;

(s) Lots, pieces of ground, and the adjoining streets and alleys with growth of weeds or noxious growth;

(t) All other things specifically designated as nuisances elsewhere in this code of ordinances.

(Ord. 1485, passed 3-18-2019)

**Statutory reference:**

*Related provisions, see Neb. RS 17-555, 18-1720*

**§ 91.16 ABATEMENT SERVICES AND NOTICE PROCEDURE.**

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

(B) *Identifying nuisances.*

(1) The city may identify suspected nuisances, in which case the City Clerk shall, upon direction of the City Council, notify the Nuisance Officer of the suspected location, person or persons in violation of any provision of this subchapter and provide the address of such alleged nuisance.

(2) The city may request that the Nuisance Officer audit the city for nuisances in the city as defined by this code of ordinances. The Nuisance Officer shall then view the property or area for any violations of the nuisances of the city. The Nuisance Officer shall not go upon private property for said audit unless granted permission by the resident/owner of suspected property.

(C) *Confirming, documenting and presenting nuisances.* The Nuisance Officer shall identify and confirm that in his or her opinion a nuisance exists as defined by federal, state or city law.

(1) Upon confirming that a nuisance appears to exist, the Nuisance Officer shall document said nuisance with photographs and other evidence pertinent to the situation. The Nuisance Officer will also obtain the legal description of the property and identify the current owners and, if possible, the occupants of the property upon which the nuisance exists.

(2) Nuisance Officer shall then present this information to the city governing board at a regular or special meeting for its confirmation that a nuisance exists as stated in § 91.17.  
(Ord. 1485, passed 3-18-2019)

### § 91.17 ENFORCEMENT.

(A) *Enforcement procedures.* The nuisance, health and/or sanitation violation is brought to the governing body by the City Nuisance Officer, or the Board of Health or upon the governing body's own action. The governing body then may declare by resolution a nuisance, health and/or sanitation violation. The nuisance, health, and/or sanitation ordinances may be enforced by: (1) city administrative procedures; (2) penal prosecutions through the courts; and/or (3) by civil procedures in the courts. Any of these procedures, or any combination of these procedures, may be used to enforce the nuisance, health and/or sanitation ordinances of the city.

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

(1) After a nuisance is declared the City Clerk notifies the Nuisance Officer to serve notice upon the violators.

(2) The Nuisance Officer shall prepare and serve notice which shall describe the found nuisance and state the required date of abatement and removal of the nuisance shall be accomplished. The notice shall also provide information as to how the interested parties may request a hearing before the governing body described in division (B)(4) below.

(3) The notice shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, said notice shall be given by a single publication in a newspaper of general circulation in the city or county of the city, and by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. The date of service is determined by the later of certified mail receipt, personal service or publication date.

(4) The accused violator (owner/agent/occupant) may request in writing a hearing before the governing body of the city within five days after notice of violation is served or published. For tree nuisance violations the period for requesting a hearing is extended to 30 days after service.

(5) If no request for a hearing is received in the required time period, the governing body may cause a hearing to be held. This option is at the sole discretion of the governing body to be used in exceptional cases.

(6) If a hearing is requested, the City Clerk shall fix the date of said hearing to be no later than 15 days from receipt of the request for the hearing. Notice of said hearing and with the date and time shall be served upon the agent, owner, and of the nuisance property by certified and regular mail.

(7) The hearing shall be a “show cause” hearing in which the agent, owner, occupant of the nuisance property (objecting property) shall provide evidence why the alleged condition should not be found to be a public nuisance and remedied. This hearing shall be heard before a quorum of the governing body. The presiding official of the governing body may conduct the hearing or said presiding official may appoint another person as the hearing officer to conduct the hearing (said hearing officer may be the City Attorney or the Enforcement Officer). At the hearing the hearing officer shall mark and receive evidence which was presented when the finding of a nuisance was made, relevant evidence of the nuisance since that time, and evidence that the notices were properly given. The objecting party shall then provide its evidence. The rules of evidence is not required at said hearing, but all evidence must be relevant to the particular nuisance being heard. Testimony shall be under oath as administered by the Hearing Officer or any person so designated by the Hearing Officer, and the person providing the testimony is subject to the laws of perjury. Evidence may be submitted in writing by affidavit.

(8) No later than 14 days after the hearing and consideration of the evidence, the governing board may by majority vote rescind the resolution of violation. If the resolution of violation is not rescinded, it shall stand. Furthermore, if the objector or its designated agent fails to appear at the hearing or does not provide evidence, the nuisance shall stand. If the resolution is not rescinded, the governing board may, by resolution, extend the date that owner, occupant, lessee, or mortgagee shall abate and remedy the said public nuisance, but in no case shall this time exceed 60 days. The findings of the governing board shall be made no later than 14 days after the hearing and notice of its finding shall be served upon the objecting party by regular U.S. Mail within five days of the finding. The finding of this hearing is final, provided that an interested party or parties may appeal such decision to the appropriate court for adjudication

(9) If the Nuisance Officer determines the nuisance is not remedied and abated within the time period designated, the city shall cause the abatement of the nuisance.

(10) If an interested party properly appeals to an appropriate court the findings and orders of the city, the city actions shall be stayed until such time that the legal proceedings are completed or dismissed. In cases of appeal from an action of the city condemning real property as a nuisance or as dangerous under the police powers of the municipality, the owners of the adjoining property may intervene in the action at any time before trial.

(C) *Penal court enforcement procedure.* If the declared nuisance, health, and/or sanitation are not abated within 15 days that the notice is served upon the owner and/or occupant, and the City Clerk has not received a request for hearing, the Nuisance Officer may cause issue of a citation for the code violation.

(1) The citation shall be prosecuted to the appropriate court by the City Attorney or other designated prosecutor for the city.

(2) A person or persons found guilty of these violations shall be guilty of a misdemeanor and fined up to \$500 per each offense.

(3) Each day that the nuisance as identified in the nuisance resolution and notice, is not abated shall be a separate offense and subject to a separate fine.

(D) *Civil court procedure.* The governing board may instruct by resolution the City Attorney to file a civil action for the abatement of a nuisance. Said civil suit may commence after 15 days notice has been served, and may be filed and prosecuted at the same time any other enforcement procedure has commenced, terminated or in progress.

(Ord. 1485, passed 3-18-2019)

***Statutory reference:***

*Related provisions, see Neb. RS 19-710*

**§ 91.18 EXPENSES.**

(A) When the city has effected the abatement of the nuisance, health and/or sanitation violation through either city employees or through contract with a third party and has incurred expenses and costs thereof, the actual cost thereof shall be charged to the owner, agent, occupant or person in possession, charge or control of such property. The billing shall be calculated at the actual cost of abating the nuisance plus a \$200 administrative fee.

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

(C) If said costs are not paid within two months after the work is done and one month after the expenses and costs are submitted to the owner and/or occupant, the city may levy and assess the expenses and costs upon the real estate benefitted by the actions in the same manner as other special assessments are levied and assessed, and the city may collect said assessments in the same procedure as other special assessments are collected. The city may also recover said expenses and costs of abating the nuisance, health and/or sanitation violation(s) in a civil action in the courts of the appropriate county in Nebraska. (Ord. 1485, passed 3-18-2019)

## CHAPTER 92: FIRE PREVENTION AND PROTECTION

### Section

#### *General Provisions*

- 92.01 Preservation of property
- 92.02 Disorderly spectator
- 92.03 Equipment
- 92.04 Interference
- 92.05 Obstruction
- 92.06 Assistance
- 92.07 Driving over fire hose
- 92.08 Traffic
- 92.09 False alarms

#### *Fire Prevention*

- 92.20 Fire Code enforcement
- 92.21 Lawful entry
- 92.22 Violation notice
- 92.23 Fire limits
- 92.24 Fires regulated
- 92.25 Flammable gases
- 92.26 Rural Fire District; merger
- 92.27 Open burning ban; waiver
- 92.28 Explosives
- 92.29 Building removal or repair required
  
- 92.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 92.01 PRESERVATION OF PROPERTY.**

The Fire Chief, or any officer in charge of the Fire Department, shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more

valuable property, the protection of human life or to prevent the spreading of fire to adjoining property. The Fire Chief may direct the municipal firefighters to remove any building, structure or fence for the purpose of checking the progress of any fire. The Fire Chief shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.

(1976 Code, § 7-101)

#### **§ 92.02 DISORDERLY SPECTATOR.**

It shall be unlawful for any person during the time of a fire and for a period of 36 hours after its extinguishment to hinder, resist or refuse to obey the Municipal Fire Chief, or to act in a noisy or disorderly manner. The Fire Chief and Assistant Fire Chief shall have the power and authority during such time to arrest or command any such person to assist them in the performance of their official duties.

(1976 Code, § 7-102) Penalty, see § 92.99

***Statutory reference:***

*Related provisions, see Neb. RS 28-908*

#### **§ 92.03 EQUIPMENT.**

It shall be unlawful for any person, except the Fire Chief and the members of the Municipal Fire Department, to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the municipality.

(1976 Code, § 7-103) Penalty, see § 92.99

***Statutory reference:***

*Related provisions, see Neb. RS 28-519*

#### **§ 92.04 INTERFERENCE.**

It shall be unlawful for any person or persons to hinder or obstruct the Municipal Fire Chief or the members of the Fire Department in the performance of their duty.

(1976 Code, § 7-104) Penalty, see § 92.99

***Statutory reference:***

*Related provisions, see Neb. RS 28-908*

#### **§ 92.05 OBSTRUCTION.**

It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within three feet of a hydrant, or within an area extending 15 feet from any outlet of a 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.

(1976 Code, § 7-105) (Ord. 1177, passed 10-9-1995) Penalty, see § 92.99

**Statutory reference:**

*Related provisions, see Neb. RS 60-6,166*

**§ 92.06 ASSISTANCE.**

It shall be unlawful for any person to refuse, after the command of the Fire Chief or Assistant Fire Chief, to aid in extinguishing a fire or to assist in the removal and protection of property.

(1976 Code, § 7-106) Penalty, see § 92.99

**Statutory reference:**

*Related provisions, see Neb. RS 28-908*

**§ 92.07 DRIVING OVER FIRE 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.

(1976 Code, § 7-107) Penalty, see § 92.99

**Statutory reference:**

*Related provisions, see Neb. RS 39-682*

**§ 92.08 TRAFFIC.**

No vehicle shall follow, approach or park closer than 500 feet to any fire vehicle, or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles.

(1976 Code, § 7-108) Penalty, see § 92.99

**Statutory reference:**

*Related provisions, see Neb. RS 39-681*

**§ 92.09 FALSE ALARMS.**

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

(1976 Code, § 7-109) Penalty, see § 92.99

**Statutory reference:**

*Related provisions, see Neb. RS 28-907, 35-520*

***FIRE PREVENTION*****§ 92.20 FIRE CODE ENFORCEMENT.**

(A) Incorporated by reference into this code or ordinances are the standards recommended by the 2012 International Fire Code and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. One copy of the International Fire Code is on file with the Municipal Clerk and shall be available for public inspection at any reasonable time.

(1976 Code, § 7-201)

(B) It shall be the duty of all municipal officials to enforce the incorporated Fire Code provisions and all infractions shall be immediately brought to the attention of the Fire Chief.

(1976 Code, § 7-202)

(Ord. 573, passed 4-20-1978)

***Statutory reference:***

*Related provisions, see Neb. RS 18-132, 19-902, 81-502*

**§ 92.21 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 to inspect, or cause to be inspected, as often as necessary the said structure for the purpose of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the municipal ordinances affecting the hazard of fire.

(1976 Code, § 7-203)

**§ 92.22 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 municipal ordinances to correct the condition that violates the said ordinance or ordinances within five days from the date of receipt of such notice.

(1976 Code, § 7-204)

**§ 92.23 FIRE LIMITS.**

The following described territory in the municipality shall be and constitute the fire limits: beginning at a point of the intersection of Highway 30 and A Street; thence north one block to Third Street; thence

west one block to B Street; thence north one half block to the alley in Block 53 of the original townsite of the city; thence west one block to C Street; thence north one block to the alley in Block 47 of the original townsite of the city; thence west one block to D Street; thence north one and one-half blocks to Sixth Street; thence west two blocks to F Street; thence north one block to Seventh Street; thence east one block to E Street; thence north two blocks to Ninth Street; thence west five blocks to K Street; thence north one block to Tenth Street; thence west on the extended line of Tenth Street to O Street; thence south along the line of the corporate limits of the municipality to the south boundary of the main right-of-way of the Union Pacific Railroad; thence southeasterly following the line of the corporate limits of the municipality and the south boundary of the main right-of-way of the Union Pacific Railroad to the western boundary of the corporate limits of the municipality; thence south following the line of the corporate limits of the municipality to the southern boundary of the corporate limits of the municipality; thence east following the line of the corporate limits of the municipality to G Street; thence north to the south boundary of the main right-of-way of the Union Pacific Railroad; thence southeasterly following the south boundary of the main right-of-way of the Union Pacific Railroad to an extension of the line of A Street; thence north to the place of beginning.

(1976 Code, § 7-205)

***Statutory reference:***

*Related provisions, see Neb. RS 17-550*

**§ 92.24 FIRES REGULATED.**

(A) It shall be lawful to build or set out certain fires; provided that, the person building such fires shall have the substance to be burned in a fire-proof trash burner or incinerator with a metal fire-proof screen of not more than one-inch mesh and located at least 20 feet from any building. The incinerator shall be built in such a way as to not permit the escape of burning paper or other substance. If any person shall require a fire in the course of his or her trade as a blacksmith or mechanic, such fire shall be built and maintained in the manner prescribed by the Fire Chief. All fires shall be built after 7:00 a.m. and completely extinguished by 8:00 p.m., except the aforesaid fires used in the course of a trade which shall be allowed during such hours as the Fire Chief shall prescribe. It shall be unlawful for any person to set fire to, burn or cause to be burned any garbage, animal matter or vegetable matter.

(B) The burning of straw, hay, leaves or brush in the open air is hereby permitted and allowed; provided that, the person setting out the same request permission and receive an open burning permit in writing, signed by the local Fire Chief, on a form provided by the state's Fire Marshal; and, provided further that, any such burning shall be done while the said fire is attended by the person setting out the same at all times; and, further provided that, the said fire shall be located at least 20 feet from any building.

(1976 Code, § 7-201) (Ord. 675, passed 9-21-1981; Ord. 683, passed 6-24-1982; Ord. 701, passed 8-5-1982) Penalty, see § 92.99

***Statutory reference:***

*Related provision, see Neb. RS 17-549, 17-556, 81-520.01*

**§ 92.25 FLAMMABLE GASES.**

Any person, firm or corporation desiring to store or keep above ground in the residential district of the municipality for any period of time any form of flammable gas or liquefied petroleum gas in excess of five gallons, or add to, enlarge or replace any facility used for the storage of such gases, must first obtain a permit from the governing body. The governing body shall require the name of the gas, the place of storage and the amount of gas stored. If the permit is granted, the governing body shall prescribe such rules, regulations and precautionary actions as it may deem necessary. Permit requirements for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of this subchapter; provided, any such present use that is discontinued for a period of 60 days shall not be revived without a permit.

(1976 Code, § 7-207) Penalty, see § 92.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-549*

**§ 92.26 RURAL FIRE DISTRICT; MERGER.**

(A) The Municipal Fire Department may be merged with the Rural Fire Protection District. The proceedings for the merger may be initiated by the presentation to the County Clerk of a petition, signed by 60% or more of the electors who are owners of any interest in real or personal property assessed for taxation in the territory to be merged and who are residing within the boundaries of such territory, stating the desires and purposes of such petitioners. The petition shall contain a description of the boundaries of the territory proposed to be merged and it shall be accompanied by a map or plat and a deposit for publication costs.

(B) (1) The County Clerk shall examine the tax schedules in the office of the County Assessor and determine and certify whether or not such petition complies with the requirements of this section and that the persons signing the petition appear to reside within the boundaries described by such petition. Thereafter, the County Clerk shall forward such petition, map or plat, and certificate to the Board of Directors of the District and the governing body affected by such merger.

(2) Within 30 days after receiving the petition, map or plat, and certificate of the County Clerk, in accordance with this section, the Board of Directors and governing body shall transmit the petition, map or plat, and certificate to the proper County Board, accompanied by a report in writing approving or disapproving the proposal contained in the petition, or approving such proposal in part and disapproving it in part.

(3) The County Clerk shall designate a time and place for a hearing before a joint meeting of the county boards of all counties in which the proposed district is to be situated and shall give notice of such hearing by publication two weeks in a newspaper of general circulation within the county, the last publication appearing at least seven days prior to said hearing. At the time and place so fixed, the county

board or boards shall meet and said hearing shall be held respecting the merger or location of the boundaries of the district. Thereupon, the county board shall determine the boundaries of the proposed District, whether as suggested in the petition or otherwise, and make a written order of such determination which shall describe the boundaries of the District and be filed in the office of the County Clerk.

(4) If the report of the Board of Directors and the governing body require under this section disapproves the proposal, the petition shall be rejected. If the report is favorable to such proposal, either in whole or in part, the County Board shall promptly designate a time and place for a hearing upon the petition and shall give notice of the hearing by publication two weeks in a newspaper of general circulation within the county, the last publication appearing at least seven days prior to said hearing.

(5) The County Board shall, at or shortly after the hearing, determine whether such territory shall be merged and shall fix the boundaries of the territory to be merged. The determination of the County Board shall be set forth in a written order which shall describe the boundaries determined upon and shall be filed in the office of the County Clerk. The County Clerk shall then fix a time and place for a public meeting of all electors who are owners of any interest in real or personal property assessed for taxation in the District who are residing within the boundaries. A Board of Directors shall be elected consisting of five residents of the District.

(6) Such merged District shall operate under the same mill levy limit as the Rural Fire Protection District.

(1976 Code, § 7-208) (Ord. 580, passed 9-21-1978)

***Statutory reference:***

*Related provisions, see Neb. RS 35-504, 35-506, 35-508, 35-509, 35-511, 35-530 through 35-536*

**§ 92.27 OPEN BURNING BAN; WAIVER.**

(A) There shall be an open burning ban on all bonfires, outdoor rubbish fires and fires for the purpose of clearing land.

(B) The Fire Chief may waive an open burning ban under division (A) above for an area under the Municipal Fire Department's 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's Fire Marshal.

(C) The Fire Chief may waive the open burning ban in the Municipal Fire Department's 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 Chief of his or her intention to burn prior to starting the burn.

(D) The Fire Chief may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under division (B) above.

(E) The Fire Department may charge a fee not to exceed \$10 for each such permit issued. This fee shall be remitted to the governing body for inclusion in the general funds allocated to the Fire Department. These 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 division (B) above in the course of that state's or political subdivision's official duties. (1976 Code, § 7-209) (Ord. 1156, passed 2-6-1995; Ord. 1426B, passed 12-5-2011)

***Statutory reference:***

*Related provisions, see Neb. RS 81-520.01*

**§ 92.28 EXPLOSIVES.**

In addition to notifying the Municipal 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 municipality, shall apply for and secure a permit from the governing body 24 hours prior to such discharge, and shall discharge such explosive materials in conformance with the conditions specified in the permit. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the State Patrol.

(1976 Code, § 7-301) (Ord. 993, passed 12-18-1989; Ord. 1146, passed 2-6-1995) Penalty, see § 92.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-549, 17-556, 28-1229, 28-1233*

**§ 92.29 BUILDING REMOVAL OR REPAIR REQUIRED.**

In the event that a building within the city's jurisdiction becomes damaged by fire, wind, flood, vandalism or any other cause to the extent that less than 50% of its value remains, exclusive of the foundation, it shall be the duty of the owner, lessee or occupant to remove or repair the said building. It shall be unlawful for any person to allow a building to stand in such damage or decayed condition. Any such building shall be removed or repaired within 30 days after receiving notice to do so by the City Council.

(Ord. 1494, passed 9-21-2020)

**§ 92.99 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 fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1976 Code, § 7.401) (Ord. 1449, passed 12-23-2013)

## CHAPTER 93: FIREWORKS

### Section

- 93.01 Definition
- 93.02 Permitted fireworks
- 93.03 Permitted uses
- 93.04 Sale; vendor license
  
- 93.99 Penalty

### § 93.01 DEFINITION.

**FIREWORKS** are hereby defined as “consumer fireworks”, as defined by Neb. RS 28-1241(6) and **DISPLAY FIREWORKS**, as defined by Neb. RS 28-1241(7).

(1976 Code, § 10-701) (Ord. 959, passed 9-26-1988; Ord. 1417, passed 11-22-2010)

**Statutory reference:**

*Related provisions, see Neb. RS 28-1241*

### § 93.02 PERMITTED FIREWORKS.

It shall be unlawful for any person to utilize ignite or cause to be exploded fireworks of any description whatsoever, except those defined as consumer fireworks in § 93.01 of this chapter. Display fireworks, as defined in § 93.01 of this chapter, may be utilized only for the purpose of public exhibitions or displays under the authorization of the governing body and the state.

(1976 Code, § 10-701) (Ord. 985, passed 9-26-1988; Ord. 1417, passed 11-22-2010) Penalty, see § 93.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-556, 28-1241, 28-1244, 28-1245*

### § 93.03 PERMITTED USES.

Permitted fireworks shall be defined as consumer fireworks, as defined in § 93.01 of this chapter; consumer fireworks may be utilized beginning on June 25 of each year and ending on July 4 of each year

to be ignited or caused to be exploded between the hours of 10:00 a.m. and 11:00 p.m. of each day with the exception of July 4 of each year when fireworks may be ignited or caused to be exploded between the hours of 10:00 a.m. and midnight, and beginning on December 29 of each year and ending on January 1 of each year, and to be ignited or caused to be exploded between the hours of 12:00 noon and 9:00 p.m. of each day with the exception of December 31 and January 1 of each year when fireworks may be ignited or caused to be exploded between the hours of 12:00 noon and 12:30 a.m.

(1976 Code, § 10-703) (Ord. 1273, passed 11-22-1999; Ord. 1417, passed 11-22-2010)

***Statutory reference:***

*Related provisions, see Neb. RS 17-134*

**§ 93.04 SALE; VENDOR LICENSE.**

(A) (1) It shall be unlawful for any person to sell, hold for sale or offer for sale as distributor, jobber or retailer any fireworks unless such person has first obtained a license as a distributor, jobber or retailer. Application for each such license shall be made to the state's Fire Marshal on forms prescribed by him or her. If the applicant is an individual, each application shall include the applicant's Social Security number. Each application shall be accompanied by the required fee, which shall be \$500 for a distributor's license, \$200 for a jobber's license and \$100 for a retailer's license. All licenses shall be good only for the calendar year in which issued and shall at all times be displayed at the place of business of the holder thereof.

(2) Before any permissible fireworks may be sold, held for sale or offered for sale in the state, they shall first be submitted to the state's Fire Marshal for examination to determine their compliance with Neb. RS 28-1241(7) and their safety for general use. Fireworks not specifically listed therein may be added to the list of permissible fireworks by the state's Fire Marshal, by rule or regulation, after having been submitted to him or her and tested to determine their safety for general use.

(3) Consumer fireworks, as defined in § 93.01 of this chapter, may be sold at retail only on those dates of each year when the sale of such fireworks is permitted by Neb. RS 28-1249 and by regulations of the state's Fire Marshal.

(1976 Code, § 10-704)

(B) (1) It shall be unlawful to sell any fireworks within the city unless a license is first obtained from the governing body. Application shall be filed with the Municipal Clerk upon forms supplied by the municipality, which forms may request such information and documents as the governing body may deem necessary to consider said application. No license shall be granted without the following provisions.

(a) No fireworks vendor's stands, tables, displays or signs shall be permitted in any residentially zoned district.

(b) No fireworks vendor's stands, tables, displays or signs shall protrude past the lot line of the property upon which the display is primarily located, nor shall any fireworks vendor's stands, tables, displays or signs protrude into any public way, including, but not limited to, sidewalks.

(c) All structures, vehicles, stands, tables, displays or signs used for or relating to the sale of fireworks shall be completely removed from public view on any property within the city, prior to July 10 of each year.

(d) The license fee for engaging in the sale of display of fireworks within the city shall be \$100 annually for each location wherein such activity is conducted.

(2) Upon the determination to grant the license, the governing body shall direct the Municipal Clerk to collect the appropriate fee and issue said license. Any license so issued may be revoked at any time by the governing body upon proper notice and hearing if one is requested by the licensee.

(1976 Code, § 10-705)

(Ord. 1273, passed 11-22-1999; Ord. 1294, passed 8-20-2001) Penalty, see § 93.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-137*

### **§ 93.99 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 fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1976 Code, § 10-1201) (Ord. 1449, passed 12-23-2013)



## CHAPTER 94: RECREATION AND LEISURE

### Section

- 94.01 Municipal swimming pool
- 94.02 Municipal library
- 94.03 Municipal parks

### § 94.01 MUNICIPAL SWIMMING POOL.

(A) *Operation and funding.* The municipality owns and manages the municipal swimming pool. The governing body, for the purpose of defraying the cost of the management, maintenance and improvements of the swimming pool may, each year, levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the municipality that is subject to taxation. The revenue from the said tax shall be known as the "Swimming Pool Fund" and shall include all gifts, grants, deeds of conveyance, bequests or other valuable income-producing personal property and real estate from any source for the purpose of endowing the swimming pool. The Swimming Pool Fund shall at all times be in the custody of the Municipal Treasurer. The Board of Park Commissioners shall manage the swimming pool. The Board shall have the power and authority to hire and supervise the Swimming Pool Manager and such employees as it 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 Board shall be under the supervision and control of the governing body.

(1976 Code, § 3-601)

(B) *Admission charge.* The Board of Park Commissioners 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 said charges shall be on file at the office of the Municipal 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.

(1976 Code, § 3-602)

(C) *Rentals.* The Board of Park Commissioners shall have the authority to rent the municipal swimming pool to such organizations and other persons as it may, in their discretion, see fit, subject to

the review of the governing body. The Board 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 Municipal Clerk and posted in a conspicuous place at the municipal swimming pool.

(1976 Code, § 3-603)

(D) *Rules and regulations.* The Board of Park Commissioners shall have the power and authority to enact bylaws, rules and regulations for the protection of those using the swimming pool and for the efficient management thereof. They may provide suitable penalties for the violation of such bylaws, rules and regulations subject to the review and supervision of the governing body.

(1976 Code, § 3-604)

***Statutory reference:***

*Related provisions, see Neb. RS 17-948, 17-949, 17-951, 17-952*

## **§ 94.02 MUNICIPAL LIBRARY.**

(A) *Operation and funding.* The municipality owns and manages the municipal library through the Library Board. The governing body, for the purpose of defraying the cost of the management, purchases, improvements and maintenance of the library may, each year, levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the municipality that is subject to taxation. The revenue from the said tax shall be known as the "Library Fund" and shall include all gifts, grants, deeds of conveyance, bequests or other valuable income-producing personal property and real estate from any source for the purpose of endowing the municipal library. The Library Fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to appoint the librarian and to hire such other employees as it may deem necessary and may pass 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 governing body.

(1976 Code, § 3-701)

(B) *Books.* The Library Board may authorize the sale, exchange or disposal of any surplus, damaged, defective, obsolete or duplicate books in the library. Records shall be kept of any such surplus, damaged, defective, obsolete or duplicate books so disposed of.

(1976 Code, § 3-702)

(C) *Rules and regulations.* The Library Board shall establish rules and regulations for the governing of the municipal library for the preservation and efficient management thereof. It 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 the said assessments.

(1976 Code, § 3-703)

(D) *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 Library Board may assess.  
(1976 Code, § 3-704)

(E) *Book removal.* It shall be unlawful for any person not authorized by the regulations made by the Library Board 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.  
(1976 Code, § 3-705)

(F) *Cost of use.* The municipal library shall be free for the use of the inhabitants of the municipality. The librarian may exclude from the use of the library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof.  
(1976 Code, § 3-706)

(G) *Money collected.* Any money collected by the library shall be turned over monthly by the librarian to the Municipal Treasurer along with a report of the sources of the revenue.  
(1976 Code, § 3-707)

(H) *Annual report.* The Library Board shall, on or before the second Monday in February in each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information and suggestions as the Library Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the President and Secretary of the Library Board.  
(1976 Code, § 3-708)  
(Ord. 1358, passed 11-8-2004)

***Statutory reference:***

*Related provisions, see Neb. RS 51-201, 51-202, 51-205, 51-207, 51-209, 51-211, 51-212, 51-213, 51-214*

**§ 94.03 MUNICIPAL PARKS.**

(A) *Operation and funding.* The municipality owns and operates the municipal parks and other recreational areas through the Board of Park Commissioners. The governing body, for the purpose of defraying the cost of the care, management and maintenance of the municipal park may, each year, levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate

and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the "Park Fund" and shall remain in the custody of the Municipal Treasurer. The Board shall have the authority to adopt rules and regulations for the efficient management of the Municipal Parks and other recreational areas of the municipality. The Board shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the governing body prior to the contractual agreement.

(1976 Code, § 3-501)

(B) *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 municipal parks and recreational areas. No person shall commit any waste on or litter the municipal parks or other public grounds.

(1976 Code, § 3-502)

(C) *Exercise trail; restricted use.* No person shall ride or propel any wheeled vehicle, whether licensed or unlicensed, including motorcycles, bicycles, roller skates or skateboards, upon the exercise trail or exercise track located in Munny Park in the city.

(1976 Code, § 3-503)

(Ord. 745, passed 6-7-1984) Penalty, see § 10.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-948 through 17-952, 60-2106*

## CHAPTER 95: CEMETERY

### Section

- 95.01 Operation and funding
- 95.02 Sexton
- 95.03 Conveyance of lots
- 95.04 Forfeiture of lots
- 95.05 Lot transfers
- 95.06 Destruction of property
- 95.07 Reclamation

### § 95.01 OPERATION AND FUNDING.

(A) The municipality owns and manages the municipal cemetery through the Cemetery Board. The governing body, for the purpose of defraying the cost of the care, management, maintenance and beautification of the cemetery may, each year, levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the municipality that is subject to taxation. The revenue from the said tax shall be known as the “Cemetery Fund” and shall include all gifts, grants, deeds of conveyance, bequests, money, stocks, bonds or other valuable income-producing personal property and real estate from any source for the purpose of endowing the cemetery. The Cemetery Fund shall at all times be in the custody of the Municipal Treasurer.

(B) The Board shall have the power and authority to hire and supervise such employees as it may deem necessary and to pass such rules and regulations for the operation of the cemetery as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the governing body.

(1976 Code, § 3-801)

***Statutory reference:***

*Related provisions, see Neb. RS 12-301 through 12-403*

### § 95.02 SEXTON.

(A) The Cemetery Board, subject to the approval of the governing body, shall have the authority to appoint a Sexton, who shall perform such duties and make such reports as the Cemetery Board shall direct.

(B) It shall be the duty of the Sexton, upon receiving a burial permit to locate and direct the party named in the permit to the lot mentioned therein and to dig and excavate, or cause the same to be dug or excavated, in compliance with the rules and regulations of the Cemetery Board.

(1976 Code, § 3-802)

**Statutory reference:**

*Related provisions, see Neb. RS 12-403*

**§ 95.03 CONVEYANCE OF LOTS.**

(A) The governing body may convey cemetery lots by certificate signed by the Mayor and countersigned by the Municipal Clerk under the municipal seal specifying that the person to whom the same is issued is the owner of the lot described therein by number for the purpose of interment.

(B) The said certificate shall give a right in fee simple to the proprietor, his or her heirs and assigns.

(C) The certificate shall then be recorded in the office of the County Clerk.

(1976 Code, § 3-803)

**Statutory reference:**

*Related provisions, see Neb. RS 17-941*

**§ 95.04 FORFEITURE OF LOTS.**

(A) If, for three consecutive years, all charges and liens are not paid by the holders of the lot certificates, the said certificates shall be declared forfeited and subject to resale.

(B) All certificates sold shall contain a forfeiture clause to the effect that, if no interment is made on the said lot and all liens paid, the certificate and the rights under the same may, at the option of the Cemetery Board, with the sanction of the governing body, be declared null and void and the lot shall be subject to resale.

(1976 Code, § 3-804)

**Statutory reference:**

*Related provisions, see Neb. RS 17-938*

**§ 95.05 LOT TRANSFERS.**

Any person who wishes to transfer a certificate may do so by surrendering the original certificate to the Municipal Clerk, who shall issue a new certificate upon the receipt of the recording fee set by resolution of the governing body.

(1976 Code, § 3-805)

**§ 95.06 DESTRUCTION OF PROPERTY.**

Any person who shall willfully destroy, mutilate, deface, injure or remove any tomb, monument or gravestone placed in the cemetery, or any fence, railing or other work for the protection or ornamentation of the cemetery, or who shall willfully destroy, cut, break or injure any tree, shrub or plant shall be deemed to be guilty of a misdemeanor.

(1976 Code, § 3-806) Penalty, see § 10.99

***Statutory reference:***

*Related provisions, see Neb. RS 28-519*

**§ 95.07 RECLAMATION.**

When any lot has been transferred by warranty deed or by a deed conveying a fee simple title, but there has been no burial in any such lot or subdivision thereof and no payment of annual assessments for a period of three years, the Cemetery Board with the sanction of the governing body, may reclaim the unused portion of such lot or subdivision after notifying the record owner or his or her heirs or assigns, if known, by certified mail and publishing notice of its intention to do so. Such notice shall be published once each week for four weeks in a newspaper of general circulation throughout the county in which the cemetery is located, shall describe the lot or subdivision proposed to be reclaimed and shall be addressed to the person in whose name such portion stands of record or, if there is no owner of record, to all persons claiming any interest in such lot or subdivision. If no person appears to claim such lot or subdivision and pay all delinquent assessments with interest within 15 days after the last date of such publication, the Cemetery Board may by resolution reclaim such lot or subdivision. Such reclamation shall be complete upon a filing of a verified copy of such resolution, together with proof of publication, in the office of the Register of Deeds.

(1976 Code, § 3-807) (Ord. 914, passed 10-20-1986)

