

# NEBRASKA BASIC CODE OF ORDINANCES FOR CITIES OF THE SECOND CLASS

By  
The League of Nebraska Municipalities

Contains state legislation through July 1, 2015

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NEBRASKA STATUTE CODE  
OF ORDINANCES  
FOR CITIES  
OF THE SECOND CLASS

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# **THE NEBRASKA BASIC CODE USER'S GUIDE**

## **Adoption of the NBC**

The Nebraska Basic Code (NBC) is intended to be adopted by a municipality as its own code of ordinances. The NBC contains extensive regulations concerning the subjects listed in its table of contents.

The NBC must be adopted by ordinance before it is effective. Provided for your convenience is a sample, "Ordinance Adopting the Nebraska Basic Code of Ordinances." The ordinance adopting the NBC must be adopted at a meeting of the municipal legislative body in the same manner as an ordinance on a specific subject is adopted. All publication requirements must be met. The entire NBC is not published, only the ordinance adopting the NBC. Once passed, please send a copy of the adopting ordinance to American Legal Publishing.

A municipality is free to adopt ordinances on subjects not covered by the NBC or to amend the provisions of the NBC to conform to local needs and concerns. These ordinances and all amendments should be codified and added to the NBC in Title XVII.

Before adopting the NBC, the municipality must have a copy of the NBC as it is proposed to be adopted in the office of the municipal clerk for inspection by the public. Once adopted, the municipality must also file a copy of the NBC, along with any local Title XVII ordinances, with the county court. (See Neb. Rev. Stat. 25-2703, and Rule No. 57 of the Neb. Court Rules of County Courts) Until then, the municipality should retain its old code on file with the county court.

The enclosed Model Ordinance Adopting the Nebraska Basic Code of Ordinances repeals all ordinances pertaining to the subjects treated in the NBC which were adopted by the municipality prior to the adoption of the NBC. If there are ordinances pertaining to subjects covered by the NBC, but which the municipality wishes to continue in force (and perhaps add to Title XVII of the NBC), the municipality or its attorney should customize the enclosed adopting ordinance to specifically exclude those ordinances from repeal. Municipalities with an existing Title XVII should customize the enclosed ordinance to exclude Title XVII from repeal.

## **Use of the NBC**

The code is intended to be used in three ways.

First, it can be adopted by any Nebraska village or city of the second class under the mayor-council form of government. It would then replace the existing ordinances on the subjects contained in the NBC. Ordinances on topics not contained in the NBC will continue in effect. The

code can be amended or supplemented by additional local ordinances. Amendments should be codified and contained in Title XVII. New ordinances on topics not contained in the NBC can be either included in Title XVII or kept in the municipality's ordinance files. Note that legislation intended to be enforced by the courts should be codified as part of Title XVII and a copy placed on file with the county court.

Second, when a municipality uses the League of Nebraska Municipalities and its consultant American Legal Publishing to codify its existing ordinances, various parts of the NBC may be used as the basis for any changes in already existing ordinances, or specific provisions can be included in the new municipal code. A municipality may use the NBC as a basis for designing a new custom code book.

Third, it can be used as a reference book by municipal attorneys and municipal staff who wish to have models of ordinances available which they can modify and recommend to their municipality for adoption, with appropriate acknowledgment by the municipality that the LNM/ALP'S NBC is being used. Use by non-attorneys as the basis for municipal ordinances is discouraged unless the draft is reviewed by a municipal attorney before adoption, as the drafting of ordinances is a legal matter and knowledge of the existing statutes and other laws upon which an ordinance is based is imperative. The NBC has been prepared for use by villages and cities of the second class under the mayor-council form of government; however, many provisions are derived from statutes that also apply to other classes of municipalities and thus can be used by those municipalities.

### **Fees and Charges**

No fees or charges are specified in the NBC, unless a specific amount is required by law. A municipality adopting the NBC should therefore adopt an ordinance establishing fees and charges. Until that ordinance is adopted, any fees and charges established by ordinances that are in effect when the NBC is adopted remain in effect.

### **Councils, Departments, Boards and Commissions**

For legislative bodies, departments, boards and commissions, the NBC does not specify the number of members, as it may vary among municipalities. A municipality adopting the NBC may establish the particular number by ordinance, and may add that ordinance to Title XVII if the municipality wishes to have the number set forth in the code book. Until that ordinance is adopted, any ordinances establishing the membership number(s) that are in effect when the NBC is adopted remain in effect.

The municipality may also adopt other ordinances regarding municipal legislative bodies, departments, boards and commissions. For example, the municipality should set the specific time and place of its legislative body's meetings (see § 33.04). Such ordinances may simply be kept on file, or may be sent in and codified in Title XVII, at the municipality's option.

## Arrangements and Numbering

The Nebraska Basic Code is divided into eight odd-numbered titles, each devoted to a particular topic of municipal law. The titles include the following topics: Title I - General Provisions; Title III - Administration; Title V - Public Works; Title VII - Traffic Code; Title IX - General Regulations; Title XI - Business Regulations; Title XIII - General Offenses; and Title XV - Land Usage. The last title, Title XVII, is reserved for local legislation, if any.

Titles are divided into chapters, and all chapters are subdivided into sections. A citation to a specific section identifies the title, chapter and section number of the Basic Code provision being cited. For example, "71.11" refers to section 11 of Chapter 71 in Title VII. Title and chapter number appear to the left of the decimal: the title number precedes the first digit to the left of the decimal, and the chapter number constitutes all numerals to the left of the decimal. The section number appears to the right of the decimal. As another example, "130.02" indicates that the citation refers to section 02 of Chapter 130 in Title XIII.

### General Provisions

The purpose of this title is to create consistency throughout the code, and the provisions of Title I apply to all titles of the code. Thus, the general provisions of Title I will not be repeated throughout the code unless a variation of the provision applies to a particular code provision. Title I contains provisions concerning general definitions, rules of construction, the effect of amendment or repeal, the construction of section references, conflicting provisions, severability, errors and omissions, ordinances repealed, ordinances unaffected, interpretation, amendments to the code, amendatory language, explanation of statutory references, preservation of penalties, offenses, rights and liabilities, and a general penalty.

### General Penalty

Penalty provisions have been given a section number of .99. A general penalty has been provided at § 10.99. This general penalty will apply when no other penalty has been specifically provided for in another provision of this code.

### Title and Chapter Analysis

A table of contents, giving the name of each chapter within the title and the respective chapter numbers, can be located on the first page of each title. A Chapter Analysis, giving section headings and the respective section numbers, can be located on the first page of each Chapter. Thus, if a user wants to search for a specific crime involving property, the user could bypass the general index and go directly to the Table of Contents at the beginning of Title XIII. A quick scan down this Table of Contents would identify Chapter 130 as "Property Offenses." The user could

then go directly to Chapter 130 and scan the Chapter Analysis for the appropriate section heading, such as "Trespass."

### References

The table entitled "References to Nebraska Statutes" enables a user to trace those citations to Nebraska Statutes (cited as "Neb. RS" in the NBC) which appear throughout the NBC. This table enables a user to quickly and accurately determine if a statute is adopted by reference or otherwise cited in the NBC.

### Index

The Index contains references to all Basic Code provisions currently in effect. Index references cite section numbers.

### Questions and Suggestions

Questions and comments may be directed to Customer Service, American Legal Publishing, One West Fourth Street, 3<sup>rd</sup> Floor, Cincinnati, OH 45202, 1-800-445-5588, [customerservice@amlegal.com](mailto:customerservice@amlegal.com). Suggestions specifically relating to the contents of the Nebraska Basic Code may be sent to Christi Baunach, Staff Attorney, American Legal Publishing, One West Fourth Street, 3<sup>rd</sup> Floor, Cincinnati, OH 45202, [cbaunach@amlegal.com](mailto:cbaunach@amlegal.com). Because this is a document that will continually be improved, corrections or suggestions for improvement are welcomed, along with suggestions for model ordinances which should be included in future editions.

# PREFACE TO THE NEBRASKA BASIC CODE

## The Nebraska Basic Code

This League of Nebraska Municipalities/American Legal Publishing (LNM/ALP) Nebraska Basic Code (NBC) is an effort to provide a modern and comprehensive code of ordinances for smaller Nebraska municipalities without the expense of a customized code of ordinances. Its provisions are also useful to all Nebraska municipalities that wish to have models for the basic municipal ordinances on the subjects contained in the code.

The NBC will be supplemented annually to reflect legislative enactments. The supplements will consist of new pages which will replace the pages contained in this edition. In addition, the supplements will contain new model ordinances that will be included in the NBC unless the municipality decides not to incorporate them into their code.

## Authors and Editors

This Nebraska Basic Code is partly based on model ordinances drafted over the last several decades by various attorneys and staff at the League of Nebraska Municipalities, as updated to reflect current state law. It was prepared under the supervision of the Hon. Gary Krumland, Assistant Director and Legal Counsel, League of Nebraska Municipalities. The editorial review and formatting of the NBC was done by the staff of American Legal Publishing Corporation.

## Availability of the Code

In addition to this printed version of the NBC, the NBC is available on computer disk in a word processing format or in Folio VIEWS search and retrieval format. For ordering information, contact the publisher, American Legal Publishing Corporation, at 1-800-445-5588 or email [Customerservice@amlegal.com](mailto:Customerservice@amlegal.com).

We hope the Nebraska Basic Code will serve the needs of Nebraska municipalities for many years.

LEAGUE OF NEBRASKA  
MUNICIPALITIES  
Gary Krumland  
Assistant Director, Legal Counsel

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CORPORATION  
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**ORDINANCE NO. 2016-04**

**AN ORDINANCE OF THE CITY OF PERU, NEBRASKA  
TO REVISE ALL THE ORDINANCES OF THE CITY OF PERU, NEBRASKA,  
TO REPEAL PRIOR ORDINANCES, TO REQUIRE FILING,  
AND TO PROVIDE AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PERU, NEBRASKA

Section 1. The general ordinances of the City of Peru, Nebraska, are hereby revised, codified, and printed in book form as the "Code of Ordinances of Peru, Nebraska" consisting of the following Titles:

**TITLE I: GENERAL PROVISIONS**

10. General Provisions

**TITLE III: ADMINISTRATION**

30. Elected Officials; Ordinances
31. Appointed City/Village Officials
32. Departments, Boards, and Commissions
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- 134. Offenses Against Public Morals

## **TITLE XV: LAND USAGE**

- 150. Building Regulations

## **TITLE XVII: LOCAL LEGISLATION**

Section 2. The Code of Ordinances contains all of the provisions of a general nature pertaining to the subjects enumerated and embraced in the code. All prior ordinances pertaining to the subjects treated by the code are repealed, except that nothing shall affect any rights acquired under, actions involving, or fines, penalties, forfeitures, or liabilities incurred pursuant to such ordinances prior to repeal.

Section 3. All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in the Code of Ordinances, including ordinances specified in this section, shall remain in full force and effect unless repealed expressly or by necessary implication.

- 1. Vacating or setting the boundaries of streets, alleys, or other public places.
- 2. Annexing or detaching territory.
- 3. Granting or accepting easements, plats, or dedication of land to public use.
- 4. Providing for the acquisition or conveyance of real or personal property.
- 5. Authorizing or directing public improvements to be made.
- 6. Levying taxes or special assessments.
- 7. Appropriating money.
- 8. Granting franchises or special licenses.
- 9. Providing for the issuance of bonds or other instruments of indebtedness.


Section 4. At least one copy of the Code of Ordinances shall be on file in the office of the City Clerk and available for inspection by members of the public during the hours the office is kept open for the ordinary transaction of business. The Clerk shall file a copy of the ordinances with the County Court.

Section 5. This ordinance shall be in full force and shall take effect from and after its passage, approval, and publication according to law.

Passed and approved 9-13, 2016.

ATTEST:

  
\_\_\_\_\_  
Peru City Clerk

  
\_\_\_\_\_  
Mayor of the City of Peru, Nebraska



**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**



## CHAPTER 10: GENERAL PROVISIONS

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### **§ 10.01 TITLE OF CODE.**

This codification of ordinances shall be designated as the City Code of Ordinances and may be so cited.

### **§ 10.02 INTERPRETATION.**

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

**§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

**§ 10.04 CAPTIONS.**

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

**§ 10.05 DEFINITIONS.**

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

***CITY, MUNICIPAL CORPORATION, or MUNICIPALITY.*** The city adopting this Code.

***CITY COUNCIL or GOVERNING BODY.*** The legislative body of the city.

***CODE, THIS CODE, or THIS CODE OF ORDINANCES.*** This city code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

***COUNTY.*** The county in Nebraska in which the city is located.

***MAY.*** The act referred to is permissive.

***MONTH.*** A calendar month.

***OATH.*** Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words *SWEAR* and *SWORN* shall be equivalent to the words *AFFIRM* and *AFFIRMED*.

***OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT.*** An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

***PERSON.*** Includes bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations.  
(Neb. RS 49-801(16))

**PRECEDING** or **FOLLOWING**. Next before or next after, respectively.

**SHALL**. The act referred to is mandatory.

**SIGNATURE** or **SUBSCRIPTION**. Includes a mark when the person cannot write.

**STATE**. The State of Nebraska.

**SUBCHAPTER**. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

**WRITTEN**. Any representation of words, letters, or figures, whether by printing or otherwise.

**YEAR**. A calendar year, unless otherwise expressed.

#### § 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the Mayor and City Council or of the context of the same ordinance:

(A) **AND** or **OR**. Either conjunction shall include the other as if written “and/or,” if the sense requires it.

(B) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

#### § 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

**§ 10.08 REFERENCE TO OTHER SECTIONS.**

Whenever a section refers to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is materially altered by the amendment or revision.

**§ 10.09 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

**§ 10.10 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

**§ 10.11 OFFICIAL TIME.**

The official time, as established by applicable state/federal laws, shall be the official time within this city for the transaction of all city business.

**§ 10.12 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is Sunday, it shall be excluded.

**§ 10.13 ORDINANCES REPEALED.**

This code contains all of the provisions of a general nature pertaining to the subjects enumerated and embraced in this code. All prior ordinances pertaining to the subjects treated by this code are repealed, except that nothing shall affect any rights acquired under, actions involving, or fines, penalties, forfeitures, or liabilities incurred pursuant to those ordinances prior to repeal.

**§ 10.14 ORDINANCES UNAFFECTED.**

(A) All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code, including ordinances specified in this section, shall remain in full force and effect unless repealed expressly or by necessary implication:

- (1) Vacating or setting the boundaries of streets, alleys, or other public places;
- (2) Annexing or detaching territory;
- (3) Granting or accepting easements, plats, or dedication of land to public use;
- (4) Providing for the acquisition or conveyance of real or personal property;
- (5) Authorizing or directing public improvements to be made;
- (6) Levying taxes or special assessments;
- (7) Appropriating money;
- (8) Granting franchises or special licenses; or
- (9) Providing for the issuance of bonds or other instruments of indebtedness.

(B) All ordinances codified in Title XVII of this code shall remain in full force and effect unless repealed expressly.

**§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an ordinance is repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it to give effect thereto.

(B) No suit, proceedings, right, liability, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released,

or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force, unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision is itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

*Statutory reference:*

*Requirements for amendments and revisions, see Neb. RS 17-614*

#### **§ 10.16 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. Example: (Neb. RS 18-132)

(B) A statutory cite set forth as a “statutory reference” following the text of the section indicates that the reader should refer to that statute for further information. Example:

##### **§ 39.01 PUBLIC RECORDS AVAILABLE.**

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

*Statutory reference:*

*Inspection of public records, see Neb. RS 84-712 et seq.*

#### **§ 10.17 LOCAL CHANGES TO THIS CODE OF ORDINANCES.**

(A) Any provision of this code of ordinances may be repealed, modified or superseded by an ordinance passed by the City Council.

(B) An ordinance repealing, modifying, or superseding any provision of this code may be codified as part of this code in Title XVII, Local Legislation.

(C) Local legislation codified in Title XVII of this code shall preempt other provisions of this code on the same or similar subjects as expressly stated in the Title XVII legislation or implied by necessity. To the extent that there exists any conflict between local legislation codified in Title XVII and any other provision of this code, the Title XVII local legislation shall control.

#### **§ 10.99 GENERAL PENALTY.**

(A) Any person who violates any of the provisions of this city code, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any

sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this code.

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

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

*Statutory reference:*

*Authority to abate nuisances, see Neb. RS 18-1720 and 18-1722*

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**TITLE V: PUBLIC WORKS**

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***Cross-reference:***

*Trespass; public power infrastructure facility, see § 130.02*

### **§ 50.01 DENIAL OF SERVICE; WHEN PROHIBITED.**

No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity at retail in this city shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings.  
(Neb. RS 70-1601)

### **§ 50.02 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE.**

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

***DOMESTIC SUBSCRIBER.*** Shall not include municipalities, cities, villages, political subdivisions, companies, corporations, partnerships, limited liability companies, or businesses of any nature.

(Neb. RS 70-1602)

(B) No public or private utility company, including any utility owned and operated by the city, furnishing water, natural gas, or electricity at retail in this city shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company first gives notice to any subscriber whose service is proposed to be terminated. Such notice shall be given in person, by first-class mail, or by electronic delivery, except that electronic delivery shall only be used if the subscriber has specifically elected to receive such notices by electronic delivery. If notice is given by first-class mail or electronic delivery, such notice shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days.

(Neb. RS 70-1605)

**Cities of the Second Class - Public Works**

(C) The notice required by division (A) shall contain the following information:

- (1) The reason for the proposed disconnection;
  - (2) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;
  - (3) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
  - (4) The name, address, and telephone number of the utility's employee or department to whom the domestic subscriber may address an inquiry or complaint;
  - (5) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
  - (6) A statement that the utility may not disconnect service pending the conclusion of the conference;
  - (7) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within 5 days of receiving notice under this section and will prevent the disconnection of the utility's service for a period of 30 days from such filing. Only 1 postponement of disconnection shall be allowed under this division for each incidence of nonpayment of any past-due account;
  - (8) The cost that will be borne by the domestic subscriber for restoration of service;
  - (9) A statement that the domestic subscriber may arrange with the utility for an installment payment plan;
  - (10) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
  - (11) Any additional information not inconsistent with this section which has received prior approval from the City Council or Board of Public Works, in the case of a city utility, or the board of directors or administrative board of any other utility.
- (Neb. RS 70-1606)

(D) The utility shall establish a third-party notice procedure for the notification of a designated third party of any proposed discontinuance of service and shall advise its subscribers, including new subscribers, of the availability of such procedures.  
(Neb. RS 70-1607)

(E) The provisions of Neb. RS 70-1608 through 70-1614 shall apply to disputes over a proposed discontinuance of service.

(F) The procedures adopted for resolving utility bills by the City Council or Board of Public Works for any city utility, 1 copy of which is on file in the office of the City Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full.

(G) This section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.  
(Neb. RS 70-1615)

**§ 50.03 DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.**

(A) It is an offense for any person to do any of the following:

(1) To connect any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or to connect any pipe or conduit supplying gas or water, without the knowledge and consent of any city utility supplying such products or services, in such a manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, gas, or water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it;

(2) To knowingly use or knowingly permit the use of electricity, electric current, gas, or water obtained unlawfully pursuant to this section;

(3) To reconnect electrical, gas, or water service without the knowledge and consent of any city utility supplying such service if the service has been disconnected pursuant to Neb. RS 70-1601 through 70-1615 or § 50.02 of this code; or

(4) To willfully injure, alter, or by any instrument, device, or contrivance in any manner interfere with or obstruct the action or operation of any meter made or provided for measuring or registering the amount or quantity of electricity, electric current, gas, or water passing through it, without the knowledge and consent of any city utility supplying the electricity, electric current, gas, or water passing or intended to pass through the meter.

(B) Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, interference, or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where that connection, reconnection, injury, alteration, interference, or obstruction is proved to exist.

(Neb. RS 28-515.02) Penalty, see § 10.99

#### § 50.04 DIVERSION OF SERVICES; CIVIL ACTION.

(A) For purposes of this section, the definitions found in Neb. RS 25-21,275 shall apply.

(B) (1) The city utility may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts bypassing, tampering, or unauthorized metering, when that act results in damages to the utility. A city utility may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering, or unauthorized metering.

(2) In any civil action brought pursuant to this section, the city utility shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering, to recover as damages:

(a) The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or

(b) Liquidated damages of \$750 if the amount of actual damage or loss is not susceptible of reasonable calculation.

(3) In addition to damage or loss under division (B)(2)(a) or (B)(2)(b), the utility may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorneys' fees in cases within the scope of Neb. RS 25-1801.

(Neb. RS 25-21,276)

(C) (1) There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of that bypassing, tampering, or unauthorized metering if the tenant or occupant:

(a) Had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist; and

(b) Was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

(2) There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of that bypassing,

tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist. (Neb. RS 25-21,277)

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common-law remedies. (Neb. RS 25-21,278)  
Penalty, see § 10.99

**§ 50.05 DELINQUENT UTILITY CHARGES; LIEN; CIVIL ACTION.**

(A) All water rates, taxes, or rent assessed by the City Council shall be a lien upon the premises or real estate, upon or for which the same is used or supplied; and such taxes, rents, or rates shall be paid and collected and such lien enforced in such manner as the Council shall by ordinance direct and provide. (Neb. RS 17-538)

(B) All sewer charges established by the City Council shall be a lien upon the premises or real estate for which the same is used or supplied. Such lien shall be enforced in such manner as the Council provides by ordinance. (Neb. RS 17-925.01)

(C) If the service charge established by the City Council for the use of any city sewage disposal plant and sewerage system is not paid when due, such sum may be recovered by the city in a civil action or it may be certified to the County Assessor and assessed against the premises served and collected or returned in the same manner as other city taxes are certified, assessed, collected, and returned. (Neb. RS 18-503)

(D) Unless the City Council otherwise provides, on June 1 of each year, the City Clerk shall report to the Council a list of all unpaid accounts due for utilities service together with a description of the premises served. If the Council approves the report, the Clerk shall certify the report to the County Clerk to be collected as a special tax in the manner provided by law.



**TITLE VII: TRAFFIC CODE**

Chapter

**70. GENERAL PROVISIONS**

**71. TRAFFIC REGULATIONS**

**72. PARKING REGULATIONS**

*Cross-reference:*

*Local legislation regarding traffic, see Title XVII*



## CHAPTER 70: GENERAL PROVISIONS

### Section

- 70.01 Definitions
- 70.02 Traffic regulations; general authority
- 70.03 Regulation of highways; police powers
- 70.04 Prohibitions on operation of vehicles
- 70.05 Ordinances contrary to state law prohibited
- 70.06 Placement and maintenance of traffic control devices
- 70.07 Enforcement of rules and laws
- 70.08 Failure or refusal to obey order
- 70.09 Obedience to traffic control devices; exceptions
- 70.10 Authorized emergency vehicles; privileges
- 70.11 Traffic officers
  
- 70.99 Traffic infractions; penalty

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

*Nebraska Rules of the Road, see Neb. RS 60-601*

### **§ 70.01 DEFINITIONS.**

For the purpose of this title, the following definitions and the other definitions in Neb. RS 60-606 through 60-676 shall apply unless the context clearly indicates or requires a different meaning.

***ALLEY.*** A highway intended to provide access to the rear or side of lots or buildings and not intended for the purpose of through vehicular traffic.

(Neb. RS 60-607)

***AUTHORIZED EMERGENCY VEHICLE.*** Such fire department vehicles, police vehicles, rescue vehicles, and ambulances as are publicly owned, such other publicly or privately owned vehicles as are designated by the Director of Motor Vehicles, and such publicly owned military vehicles of the National Guard as are designated by the Adjutant General pursuant to Neb. RS 55-133.

(Neb. RS 60-610)

***BUSINESS DISTRICT.*** The territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including, but not

limited to, hotels, banks, office buildings, railroad stations, or public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of a highway.  
(Neb. RS 60-613)

**HIGHWAY.** The entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.  
(Neb. RS 60-624)

**MANUAL.** The Manual on Uniform Traffic Control Devices adopted by the Department of Roads pursuant to Neb. RS 60-6,118.  
(Neb. RS 60-631)

**MOTOR VEHICLE.** Every self-propelled land vehicle, not operated upon rails, except bicycles, mopeds, self-propelled chairs used by persons who are disabled, and electric personal assistive mobility devices.  
(Neb. RS 60-638)

**PEACE OFFICER.** The Police Chief or other chief law enforcement official, any city police officer, or any other person authorized to enforce city ordinances. With respect to directing traffic only, peace officer shall also include any person authorized to direct or regulate traffic.  
(Neb. RS 60-646)

**RESIDENTIAL DISTRICT.** The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.  
(Neb. RS 60-654)

**ROADWAY.** That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes 2 or more separate roadways, the term roadway shall refer to any such roadway separately but not to all such roadways collectively.  
(Neb. RS 60-656)

**SCHOOL CROSSING ZONE.** The area of a roadway designated to the public by the City Council as a school crossing zone through the use of a sign or traffic control device as specified by the City Council in conformity with the Manual but does not include any area of a freeway. A school crossing zone starts at the location of the first sign or traffic control device identifying the school crossing zone and continues until a sign or traffic control device indicates that the school crossing zone has ended.  
(Neb. RS 60-658.01)

**SHOULDER.** That part of the highway contiguous to the roadway and designed for the accommodation of stopped vehicles, for emergency use, and for lateral support of the base and surface courses of the roadway.  
(Neb. RS 60-661)

**TRAFFIC.** Pedestrians, ridden or herded animals, and vehicles and other conveyances either singly or together while using any highway for purposes of travel.

(Neb. RS 60-669)

**TRAFFIC CONTROL DEVICE.** Any sign, signal, marking, or other device not inconsistent with the Nebraska Rules of the Road placed or erected by authority of the City Council or any official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

(Neb. RS 60-670)

**TRAFFIC CONTROL SIGNAL.** Any signal, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(Neb. RS 60-671)

**TRAFFIC INFRACTION.** The violation of any provision of the Nebraska Rules of the Road or of any law, ordinance, order, rule, or regulation regulating traffic which is not otherwise declared to be a misdemeanor or a felony or, in this title, an offense.

(Neb. RS 60-672)

**VEHICLE.** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway except devices moved solely by human power or used exclusively upon stationary rails or tracks.

(Neb. RS 60-676)

## § 70.02 TRAFFIC REGULATIONS; GENERAL AUTHORITY.

(A) The City Council may, in its jurisdiction, enact regulations permitting, prohibiting, and controlling the use of motor vehicles, minibikes, motorcycles, off-road recreation vehicles of any and all types, other powered vehicles, electric personal assistive mobility devices, and vehicles which are not self-propelled. Any person who operates any of such vehicles without the permission of the City Council or its designated representative or in a place, time, or manner which has been prohibited by the City Council shall be guilty of an offense.

(B) The City Council may further authorize the supervising official of any area under its ownership or control to permit, control, or prohibit operation of any motor vehicle, minibike, motorcycle, off-road recreational vehicle of any or all types, other powered vehicle, electric personal assistive mobility device, or vehicle which is not self-propelled on all or any portion of any area under its ownership or control at any time by posting or, in case of an emergency, by personal notice. Any person operating any such vehicle where prohibited, where not permitted, or in a manner so as to endanger the peace and safety of the public or as to harm or destroy the natural features or manmade features of any such area shall be guilty of an offense.

(Neb. RS 60-678) Penalty, see § 10.99

**§ 70.03 REGULATION OF HIGHWAYS; POLICE POWERS.**

(A) The City Council with respect to highways under its jurisdiction and within the reasonable exercise of the police power may:

- (1) Regulate or prohibit stopping, standing, or parking;
- (2) Regulate traffic by means of peace officers or traffic control devices;
- (3) Regulate or prohibit processions or assemblages on the highways;
- (4) Designate highways or roadways for use by traffic moving in one direction;
- (5) Establish speed limits for vehicles in public parks;
- (6) Designate any highway as a through highway or designate any intersection as a stop or yield intersection;
- (7) Restrict the use of highways as authorized in § 70.04;
- (8) Regulate operation of bicycles and require registration and inspection of such, including requirement of a registration fee;
- (9) Regulate operation of electric personal assistive mobility devices;
- (10) Regulate or prohibit the turning of vehicles or specified types of vehicles;
- (11) Alter or establish speed limits authorized in the Nebraska Rules of the Road;
- (12) Designate no-passing zones;
- (13) Prohibit or regulate use of controlled-access highways by any class or kind of traffic except those highways which are a part of the state highway system;
- (14) Prohibit or regulate use of heavily traveled highways by any class or kind of traffic it finds to be incompatible with the normal and safe movement of traffic, except that such regulations shall not be effective on any highway which is part of the state highway system unless authorized by the Department of Roads;
- (15) Establish minimum speed limits as authorized in the Rules;
- (16) Designate hazardous railroad grade crossings as authorized in the Rules;
- (17) Designate and regulate traffic on play streets;

(18) Prohibit pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk as authorized in the Rules;

(19) Restrict pedestrian crossings at unmarked crosswalks as authorized in the Rules;

(20) Regulate persons propelling push carts;

(21) Regulate persons upon skates, coasters, sleds, and other toy vehicles;

(22) (a) Notwithstanding any other provision of law, adopt and enforce an ordinance or resolution prohibiting the use of engine brakes on the National System of Interstate and Defense Highways that has a grade of less than 5 degrees within its jurisdiction.

(b) For the purpose of this division, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**ENGINE BRAKE.** A device that converts a power producing engine into a power-absorbing air compressor, resulting in a net energy loss;

(23) Adopt and enforce such temporary or experimental regulations as may be necessary to cover emergencies or special conditions; and

(24) Adopt other traffic regulations except as prohibited by state law or contrary to state law.

(B) The City Council shall not erect or maintain any traffic control device at any location so as to require the traffic on any state highway or state-maintained freeway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the Department of Roads.

(C) No ordinance or regulation enacted under division (A)(4), (5), (6), (7), (10), (11), (12), (13), (14), (16), (17), or (19) shall be effective until traffic control devices giving notice of such local traffic regulations are erected upon or at the entrances to such affected highway or part thereof affected as may be most appropriate.

(Neb. RS 60-680)

#### § 70.04 PROHIBITIONS ON OPERATION OF VEHICLES.

(A) The City Council may by ordinance or resolution prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles, for a total period not to exceed 90 days in any 1 calendar year, when operated upon any highway under the jurisdiction of and for the maintenance of which the City Council is responsible whenever any such highway by reason of deterioration, rain, snow, or other climatic condition will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight thereof reduced. The City Council shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end

of that portion of any highway affected thereby, and the ordinance or resolution shall not be effective until such signs are erected and maintained.

(B) The City Council may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.  
(Neb. RS 60-681)

#### **§ 70.05 ORDINANCES CONTRARY TO STATE LAW PROHIBITED.**

The City Council shall not enact or enforce any ordinance directly contrary to the Nebraska Rules of the Road unless expressly authorized by the Legislature.  
(Neb. RS 60-6,108)

#### **§ 70.06 PLACEMENT AND MAINTENANCE OF TRAFFIC CONTROL DEVICES.**

The City Council shall place and maintain such traffic control devices upon highways under its jurisdiction as it deems necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. All such traffic control devices erected pursuant to this title shall conform with the Manual.  
(Neb. RS 60-6,121)

#### **§ 70.07 ENFORCEMENT OF RULES AND LAWS.**

(A) All peace officers are hereby specifically directed and authorized and it shall be deemed and considered a part of the official duties of each of such officers to enforce the provisions of Nebraska Rules of the Road and this title, including the specific enforcement of maximum speed limits, and any other state or city law regulating the operation of vehicles or the use of the highways.

(B) To perform the official duties imposed by this section, peace officers shall have the power:

(1) To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of the Motor Vehicle Operator's License Act or this title or of any other law regulating the operation of vehicles or the use of the highways, if and when designated or called upon to do so as provided by law;

(2) To make arrests upon view and without warrant for any violation committed in their presence of any provision of the laws of this state relating to misdemeanors or felonies or of similar city ordinances if and when designated or called upon to do so as provided by law;

(3) At all times to direct all traffic in conformity with law or, in the event of a fire or other emergency or in order to expedite traffic or insure safety, to direct traffic as conditions may require;

(4) When in uniform, to require the driver of a vehicle to stop and exhibit his or her operator's license and registration certificate issued for the vehicle and submit to an inspection of such vehicle and the license plates and registration certificate for the vehicle and to require the driver of a motor vehicle to present the vehicle within 5 days for correction of any defects revealed by such motor vehicle inspection as may lead the inspecting officer to reasonably believe that such motor vehicle is being operated in violation of the statutes of Nebraska, the rules and regulations of the Director of Motor Vehicles, or any city ordinance or regulation;

(5) To inspect any vehicle of a type required to be registered according to law in any public garage or repair shop or in any place where such a vehicle is held for sale or wrecking;

(6) To serve warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways; and

(7) To investigate traffic accidents for the purpose of carrying on a study of traffic accidents and enforcing motor vehicle and highway safety laws.

(Neb. RS 60-683)

*Statutory reference:*

*Motor Vehicle Operator's License Act, see Neb. RS 60-462*

**§ 70.08 FAILURE OR REFUSAL TO OBEY ORDER.**

(A) Any person who knowingly fails or refuses to obey any lawful order of any peace officer who is controlling or directing traffic shall be guilty of a traffic infraction.

(B) Any person who knowingly fails to obey any lawful order of a peace officer shall be guilty of an offense whenever such order is given in furtherance of the apprehension of a person who has violated the Nebraska Rules of the Road or this title or of a person whom such officer reasonably believes has violated the Rules or this title.

(Neb. RS 60-6,110) Penalty, see § 10.99

**§ 70.09 OBEDIENCE TO TRAFFIC CONTROL DEVICES; EXCEPTIONS.**

(A) The driver of any vehicle shall obey the instructions of any traffic control device applicable thereto placed in accordance with the Nebraska Rules of the Road or this title, unless otherwise directed by a peace officer, subject to the exceptions granted the driver of an authorized emergency vehicle in the Rules and this title.

(B) No provision of the Rules or this title for which traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by a reasonably observant person. Whenever any provision of the Rules or this title does not state that traffic control devices are required, such provision shall be effective even though no devices are erected or in place.

(C) Whenever traffic control devices are placed in position approximately conforming to the requirements of the Rules or this title, such devices shall be presumed to have been so placed by the official act or direction of lawful authority unless the contrary is established by competent evidence.

(D) Any traffic control device placed pursuant to the Rules or this title and purporting to conform with the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of the Rules or this title unless the contrary is established by competent evidence.  
(Neb. RS 60-6,119) Penalty, see § 70.99

### § 70.10 AUTHORIZED EMERGENCY VEHICLES; PRIVILEGES.

(A) Subject to the conditions stated in the Nebraska Rules of the Road and this title, the driver of an authorized emergency vehicle, when responding to an emergency call, when pursuing an actual or suspected violator of the law, or when responding to but not when returning from a fire alarm, may:

(1) Stop, park, or stand, irrespective of the provisions of the Rules and this title, and disregard regulations governing direction of movement or turning in specified directions; and

(2) Except for wreckers towing disabled vehicles and highway maintenance vehicles and equipment:

(a) Proceed past a steady red indication, a flashing red indication, or a stop sign but only after slowing down as may be necessary for safe operation; and

(b) Exceed the maximum speed limits so long as he or she does not endanger life, limb, or property.

(B) Except when operated as a police vehicle, the exemptions granted in division (A) shall apply only when the driver of such vehicle, while in motion, sounds an audible signal by bell, siren, or exhaust whistle as may be reasonably necessary and when such vehicle is equipped with at least 1 lighted light displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle.

(C) The exemptions granted in division (A) shall not relieve the driver from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect such driver from the consequences of his or her reckless disregard for the safety of others.

(D) Authorized emergency vehicles operated by police and fire departments shall not be subject to the size and weight limitations of sections Neb. RS 60-6,288 to 60-6,290 and 60-6,294.  
(Neb. RS 60-6,114)

**§ 70.11 TRAFFIC OFFICERS.**

The City Council or the city police may at any time detail officers, to be known as "traffic officers," at street intersections. All traffic officers shall be vested with the authority to regulate and control traffic at the intersections to which they are assigned. It shall be their duty to direct the movement of traffic and prevent congestion and accidents. It shall be unlawful for any person to violate any order or signal of any such traffic officer notwithstanding the directive of a stop sign or signal device that may have been placed at any such intersection.

Penalty, see § 70.99

**§ 70.99 TRAFFIC INFRACTIONS; PENALTY.**

(A) Unless otherwise declared in this title with respect to particular offenses, a violation of any provision of this title shall constitute a traffic infraction.

(Neb. RS 60-682)

(B) Any person who is found guilty of a traffic infraction in violation of this title for which a penalty has not been specifically provided shall be fined:

(1) Not more than \$100 for the first offense;

(2) Not more than \$200 for a second offense within a 1-year period; and

(3) Not more than \$300 for a third and subsequent offense within a 1-year period.

(Neb. RS 60-689)

*Statutory reference:*

*Other provisions on traffic infractions, see Neb. RS 60-684 through 60-694.01*



## CHAPTER 71: TRAFFIC REGULATIONS

### Section

#### *General Provisions*

- 71.01 Restrictions on direction of travel
- 71.02 Right-of-way; stop and yield signs
- 71.03 Interference with traffic control devices or railroad signs or signals
- 71.04 Signs, markers, devices, or notices; prohibited acts
- 71.05 Tire requirements and prohibitions; permissive uses

#### *Speed Limits*

- 71.20 Basic rule
- 71.21 Maximum limits
- 71.22 Bridges and other elevated structures
- 71.23 Alternative maximum limits
- 71.24 Near schools
  
- 71.99 Violations; fines

### **GENERAL PROVISIONS**

#### **§ 71.01 RESTRICTIONS ON DIRECTION OF TRAVEL.**

(A) The City Council with respect to highways under its jurisdiction may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in 1 direction at all times or at such times as shall be indicated by traffic control devices.

(B) Except for emergency vehicles, no vehicle shall be operated, backed, pushed, or otherwise caused to move in a direction which is opposite to the direction designated by competent authority on any deceleration lane, acceleration lane, access ramp, shoulder, or roadway.

(C) A vehicle which passes around a rotary traffic island shall be driven only to the right of such island.

(Neb. RS 60-6,138)

**§ 71.02 RIGHT-OF-WAY; STOP AND YIELD SIGNS.**

(A) The City Council may provide for preferential right-of-way at an intersection and indicate such by stop signs or yield signs erected by such authorities.

(B) Except when directed to proceed by a peace officer or traffic control signal, every driver of a vehicle approaching an intersection where a stop is indicated by a stop sign shall stop at a clearly marked stop line or shall stop, if there is no such line, before entering the crosswalk on the near side of the intersection or, if no crosswalk is indicated, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, such driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on such highway as to constitute an immediate hazard if such driver moved across or into such intersection.

(C) The driver of a vehicle approaching a yield sign shall slow to a speed reasonable under the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line or shall stop, if there is no such line, before entering the crosswalk on the near side of the intersection or, if no crosswalk is indicated, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, such driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard if such driver moved across or into such intersection.

(Neb. RS 60-6,148) Penalty, see § 70.99

**§ 71.03 INTERFERENCE WITH TRAFFIC CONTROL DEVICES OR RAILROAD SIGNS OR SIGNALS.**

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any traffic control device, any railroad sign or signal, or any part of such a device, sign, or signal.

(Neb. RS 60-6,129) Penalty, see § 70.99

**§ 71.04 SIGNS, MARKERS, DEVICES, OR NOTICES; PROHIBITED ACTS.**

(A) Any person who willfully or maliciously shoots upon the public highway and injures, defaces, damages, or destroys any signs, monuments, road markers, traffic control devices, traffic surveillance devices, or other public notices lawfully placed upon such highways shall be guilty of an offense.

(B) No person shall willfully or maliciously injure, deface, alter, or knock down any sign, traffic control device, or traffic surveillance device.

(C) It shall be unlawful for any person, other than a duly authorized representative of the Department of Roads, the county, or the city, to remove any sign, traffic control device, or traffic

surveillance device placed along a highway for traffic control, warning, or informational purposes by official action of the department, county, or city. It shall be unlawful for any person to possess a sign or device which has been removed in violation of this division.

(D) Any person violating division (B) or (C) of this section shall be guilty of an offense and shall be assessed liquidated damages in the amount of the value of the sign, traffic control device, or traffic surveillance device and the cost of replacing it.

(Neb. RS 60-6,130) Penalty, see § 10.99

### § 71.05 TIRE REQUIREMENTS AND PROHIBITIONS; PERMISSIVE USES.

(A) Every solid rubber tire on a vehicle moved on any highway shall have rubber on its entire traction surface at least 1 inch thick above the edge of the flange of the entire periphery.

(B) No tire on a vehicle moved on a highway shall have on its periphery any clock, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that:

(1) This prohibition shall not apply to pneumatic tires with metal or metal-type studs not exceeding  $5/16$  of an inch in diameter inclusive of the stud-casing with an average protrusion beyond the tread surface of not more than  $7/64$  of an inch between November 1 and April 1, except that school buses, mail carrier vehicles, and emergency vehicles shall be permitted to use metal or metal-type studs at any time during the year;

(2) It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway; and

(3) It shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

(C) (1) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer:

(a) Having any metal tire in contact with the roadway; or

(b) Equipped with solid rubber tires.

(2) Division (C)(1) shall not apply to farm vehicles having a gross weight of 10,000 pounds or less or to implements of husbandry.

(D) The city may, in its discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery.

(Neb. RS 60-6,250)

*Statutory reference:*

*Rubber tired cranes, see Neb. RS 60-6,288*

### **SPEED LIMITS**

#### **§ 71.20 BASIC RULE.**

No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. A person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(Neb. RS 60-6,185) Penalty, see § 70.99

#### **§ 71.21 MAXIMUM LIMITS.**

(A) Except when a special hazard exists that requires lower speed for compliance with § 71.20, the limits set forth in this section and Neb. RS 60-6,187, 60-6,188, 60-6,305, and 60-6,313 shall be the maximum lawful speeds unless reduced pursuant to division (B), and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits:

- (1) Twenty-five miles per hour in any residential district;
- (2) Twenty miles per hour in any business district;
- (3) Fifty miles per hour upon any highway that is not dustless surfaced and not part of the state highway system;
- (4) Fifty-five miles per hour upon any dustless-surfaced highway not a part of the state highway system; and
- (5) Sixty miles per hour upon any part of the state highway system other than an expressway or a freeway, except that the Department of Roads may, where existing design and traffic conditions allow, according to an engineering study, authorize a speed limit 5 miles per hour greater.

(B) The maximum speed limits established in division (A) may be reduced by the Department of Roads or the City Council pursuant to § 71.23 or Neb. RS 60-6,188.

(C) The City Council may erect and maintain suitable signs along highways under its jurisdiction in such number and at such locations as it deems necessary to give adequate notice of the speed limits established pursuant to division (A) or (B) upon such highways.  
(Neb. RS 60-6,186) Penalty, see § 71.99

**§ 71.22 BRIDGES AND OTHER ELEVATED STRUCTURES.**

(A) No person shall drive a vehicle over any public bridge, causeway, viaduct, or other elevated structure at a speed which is greater than the maximum speed which can be maintained with safety thereon when such structure is posted with signs as provided in division (B).

(B) The Department of Roads or the City Council may conduct an investigation of any bridge or other elevated structure constituting a part of a highway under its jurisdiction, and if it finds that the structure cannot safely withstand vehicles traveling at the speed otherwise permissible, the Department or the City Council shall determine and declare the maximum speed of vehicles which the structure can safely withstand and shall cause suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(C) Upon the trial of any person charged with a violation of division (A), proof of the determination of the maximum speed by the Department or the City Council and the existence of such signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety on the bridge or structure.

(Neb. RS 60-6,189) Penalty, see § 71.99

**§ 71.23 ALTERNATIVE MAXIMUM LIMITS.**

(A) Whenever the Department of Roads determines, upon the basis of an engineering and traffic investigation, that any maximum speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, place, or part of the state highway system outside of the corporate limits of cities and villages as well as inside the corporate limits of cities and villages on freeways which are part of the state highway system, it may determine and set a reasonable and safe maximum speed limit for such intersection, place, or part of such highway which shall be the lawful speed limit when appropriate signs giving notice thereof are erected at such intersection, place, or part of the highway, except that the maximum rural and freeway limits shall not be exceeded. Such a maximum speed limit may be set to be effective at all times or at such times as are indicated upon such signs.

(B) On all highways within its corporate limits, except on state-maintained freeways which are part of the state highway system, the City Council shall have the same power and duty to alter the maximum speed limits as the Department if the change is based on engineering and traffic investigation, except that

no imposition of speed limits on highways which are part of the state highway system in the city shall be effective without the approval of the Department.

(C) Not more than 6 such speed limits shall be set per mile along a highway, except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than 20 miles per hour.

(D) When the Department or the City Council determines by an investigation that certain vehicles in addition to those specified in Neb. RS 60-6,187, 60-6,305, and 60-6,313 cannot with safety travel at the speeds provided in §§ 71.21 and 71.22 and Neb. RS 60-6,187, 60-6,305, and 60-6,313 or set pursuant to this section, § 71.22, or Neb. RS 60-6,188, the Department or the City Council may restrict the speed limit for such vehicles on highways under its respective jurisdiction and post proper and adequate signs.

(Neb. RS 60-6,190)

#### **§ 71.24 NEAR SCHOOLS.**

(A) It shall be unlawful for the driver of any vehicle, when passing premises on which school buildings are located and which are used for school purposes, during school recess or while children are going to or leaving school during the opening or closing hours, to drive the vehicle at a rate of speed in excess of 15 miles per hour past the premises.

Penalty, see § 71.99

(B) The driver shall stop at all stop signs located at or near such school premises, and it shall be unlawful for the driver to make a U-turn at any intersection where such stop signs are located at or near such school premises.

Penalty, see § 70.99

#### **§ 71.99 VIOLATIONS; FINES.**

(A) Any person who operates a vehicle in violation of any maximum speed limit established for any highway or freeway is guilty of a traffic infraction and upon conviction shall be fined:

- (1) \$10 for traveling 1-5 miles per hour over the authorized speed limit;
- (2) \$25 for traveling over 5 miles per hour but not over 10 miles per hour over the authorized speed limit;
- (3) \$75 for traveling over 10 miles per hour but not over 15 miles per hour over the authorized speed limit;
- (4) \$125 for traveling over 15 miles per hour but not over 20 miles per hour over the authorized speed limit;

(5) \$200 for traveling over 20 miles per hour but not over 35 miles per hour over the authorized speed limit; and

(6) \$300 for traveling over 35 miles per hour over the authorized speed limit.

(B) (1) The fines prescribed in division (A) shall be doubled if the violation occurs within a maintenance, repair, or construction zone established pursuant to Neb. RS 60-6,188.

(2) For the purpose of this division (B), the following definition shall apply unless the context clearly indicates or requires a different meaning.

***MAINTENANCE, REPAIR, OR CONSTRUCTION ZONE.***

(a) (i) The portion of a highway identified by posted or moving signs as being under maintenance, repair, or construction; or

(ii) The portion of a highway identified by maintenance, repair, or construction zone speed limit signs displayed pursuant to Neb. RS 60-6,188; and

(iii) Within such portion of a highway where road construction workers are present.

(b) The maintenance, repair, or construction zone starts at the location of the first sign identifying the maintenance, repair, or construction zone and continues until a posted or moving sign indicates that the maintenance, repair, or construction zone has ended.

(C) The fines prescribed in division (A) shall be doubled if the violation occurs within a school crossing zone.  
(Neb. RS 60-682.01)



## CHAPTER 72: PARKING REGULATIONS

### Section

#### *General Provisions*

- 72.01 Regulation or prohibition authorized
- 72.02 Roadway outside business or residential district
- 72.03 General prohibitions; exceptions
- 72.04 Obstructing street, intersection, or entrance
- 72.05 Intersections
- 72.06 Alleys
- 72.07 Truck parking, loading, and unloading
- 72.08 Display or repair of vehicle
- 72.09 Current registration
- 72.10 Time limits
- 72.11 Snow; weather emergencies; highway maintenance
- 72.12 Parallel, angle, and center parking
- 72.13 Backing freight vehicle to curb
- 72.14 Unattended motor vehicle
- 72.15 Painting of curbs

#### *Administration and Enforcement*

- 72.50 Tickets
- 72.51 Removal of illegally stopped vehicles; liability for costs

#### **GENERAL PROVISIONS**

##### **§ 72.01 REGULATION OR PROHIBITION AUTHORIZED.**

(A) The City Council with respect to highways under its jurisdiction and within the reasonable exercise of the police power may regulate or prohibit stopping, standing, or parking.  
(Neb. RS 60-680)

(B) If the City Council regulates or prohibits stopping, standing, or parking all vehicles or a particular kind or class of vehicles on a highway or a portion of a highway, no person shall stop, stand,

or park a vehicle subject to such regulation or prohibition on the highway or portion thereof longer than a period of time necessary to load and unload freight or passengers.

Penalty, see § 70.99

### § 72.02 ROADWAY OUTSIDE BUSINESS OR RESIDENTIAL DISTRICT.

(A) No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon a roadway outside of a business or residential district when it is practicable to stop, park, or leave such vehicle off such part of a highway, but in any event an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such highway. Such parking, stopping, or standing shall in no event exceed 24 hours.

(B) No person shall stop, park, or leave standing any vehicle on a freeway except in areas designated or unless so directed by a peace officer, except that when a vehicle is disabled or inoperable or the driver of the vehicle is ill or incapacitated, such vehicle shall be permitted to park, stop, or stand on the shoulder facing in the direction of travel with all wheels and projecting parts of such vehicle completely clear of the traveled lanes, but in no event shall such parking, standing, or stopping upon the shoulder of a freeway exceed 12 hours.

(C) No person, except law enforcement, fire department, emergency management, public or private ambulance, or authorized Department of Roads or local authority personnel, shall loiter or stand or park any vehicle upon any bridge, highway, or structure which is located above or below or crosses over or under the roadway of any highway or approach or exit road thereto.

(D) Whenever a vehicle is disabled or inoperable in a roadway or for any reason obstructs the regular flow of traffic for reasons other than an accident, the driver shall move or cause the vehicle to be moved as soon as practical so as to not obstruct the regular flow of traffic.

(E) This section does not apply to the driver of any vehicle which is disabled while on the roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position until such time as it can be removed pursuant to division (D) of this section.

(Neb. RS 60-6,164) Penalty, see § 70.99

### § 72.03 GENERAL PROHIBITIONS; EXCEPTIONS.

(A) Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall:

(1) Stop, stand, or park any vehicle:

(a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(b) On a sidewalk;

(c) Within an intersection;

(d) On a crosswalk;

(e) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone unless the City Council indicates a different length by signs or markings;

(f) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(g) Upon any bridge or other elevated structure over a highway or within a highway tunnel;

(h) On any railroad track; or

(i) At any place where official signs prohibit stopping.

(2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(a) In front of a public or private driveway;

(b) Within 15 feet of a fire hydrant;

(c) Within 20 feet of a crosswalk at an intersection;

(d) Within 30 feet of any flashing signal, stop sign, yield sign, or other traffic control device located at the side of a roadway;

(e) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance when properly signposted;

(f) At any place where official signs prohibit standing; or

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

(a) Within 50 feet of the nearest rail of a railroad crossing; or

(b) At any place where official signs prohibit parking.

(B) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as shall be unlawful.  
(Neb. RS 60-6,166) Penalty, see § 70.99

#### **§ 72.04 OBSTRUCTING STREET, INTERSECTION, OR ENTRANCE.**

No person shall, except in case of an accident or emergency, stop any vehicle in any location where stopping will obstruct any street, intersection, or entrance to an alley or public or private drive.  
Penalty, see § 70.99

#### **§ 72.05 INTERSECTIONS.**

Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall park a vehicle or leave a vehicle standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the intersection of curb lines, or if none, then within 15 feet of the intersection of property lines, or where the curb lines are painted red or another color specified by the City Council to indicate such prohibition.  
Penalty, see § 70.99

#### **§ 72.06 ALLEYS.**

(A) No person shall park a vehicle with any portion thereof projecting into any alley entrance.

(B) No person shall park a vehicle in any alley, except for the purpose of loading or unloading during the time necessary to load or unload, which shall not exceed the maximum limit of ½ hour. Every vehicle while loading or unloading in an alley shall be parked in such manner as will cause the least obstruction possible to traffic in the alley.  
Penalty, see § 70.99

#### **§ 72.07 TRUCK PARKING, LOADING, AND UNLOADING.**

(A) It shall be unlawful for the operator of any truck with an overall length of more than 20 feet to park or stop such vehicle on a street within the business district except to load or unload when loading or unloading in an alley is impossible and then only for the period of time reasonably necessary to load or unload.

(B) If the City Council provides truck parking areas adjoining or adjacent to the business district, all truck operators shall use such parking areas for all parking purposes.

(C) Except in an area provided for by the City Council by resolution, it shall be unlawful for the operator of any truck, including an oil tanker, to park or stop for any period of time within the limits

of any street outside the business district except for the purpose of loading or unloading the cargo thereof in the ordinary course of business.

Penalty, see § 70.99

**§ 72.08 DISPLAY OR REPAIR OF VEHICLE.**

It shall be unlawful for any person to park upon any highway or public place within the city any vehicle displayed for sale. Except when necessary due to a breakdown or other emergency, no person shall adjust or repair, or race the motor of, any motor vehicle or motorcycle while standing on the highways of the city. No person or employee connected with a garage or repair shop shall use sidewalks or highways in the vicinity of the garage or shop for the purpose of working on vehicles of any description.

Penalty, see § 70.99

**§ 72.09 CURRENT REGISTRATION.**

It shall be unlawful to park or place on the highways or other public property any vehicle required to be registered by the Motor Vehicle Registration Act that is not registered in accordance with the Act. Penalty, see § 70.99

*Statutory reference:*

*Motor Vehicle Registration Act, see Neb. RS 60-301*

**§ 72.10 TIME LIMITS.**

(A) It shall be unlawful to park a vehicle on a public street for over 24 consecutive hours except where a different maximum time limit is posted.

(B) If the City Council adopts a resolution entirely prohibiting, or fixing a time limit for, the parking and stopping of vehicles on any highway, it is unlawful to park or stop any vehicle in such highway for a period of time longer than fixed in the resolution.

Penalty, see § 70.99

**§ 72.11 SNOW; WEATHER EMERGENCIES; HIGHWAY MAINTENANCE.**

(A) Unless the City Council provides otherwise, it is unlawful to park or stand any vehicle on any highway in the city at any time within 12 hours after a snowfall of 3 inches or more has occurred within a 24 hour period if the snow has not been removed within that time.

(B) The Police Chief, the city police, or any other designated person may order any highway or portion thereof vacated for weather emergencies or highway maintenance. Notice shall be given by personally notifying the owner or operator of a vehicle parked on such highway or by posting appropriate

signs along the highway not less than 4 hours prior to the time that the vacation order is to be effective. It is unlawful to park a vehicle on a highway or portion thereof vacated in accordance with this division (B).

(C) A vehicle parked in violation of this section may be removed and parked, under the supervision of the city police, to a suitable nearby location without further notice to the owner or operator of such vehicle.

Penalty, see § 70.99

#### § 72.12 PARALLEL, ANGLE, AND CENTER PARKING.

(A) Except as otherwise provided in this section, any vehicle stopped or parked upon a 2-way roadway where parking is permitted shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or edge of such roadway. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking.

(B) Except when otherwise provided by the City Council, every vehicle stopped or parked upon a 1-way roadway shall be so stopped or parked parallel to the curb or edge of such roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or edge of the roadway or its left-hand wheels within 12 inches of the left-hand curb or edge of such roadway.

(C) The City Council may permit angle or center parking on any roadway, except that angle or center parking shall not be permitted on any federal-aid highway or on any part of the state highway system unless the Director-State Engineer has determined that such roadway is of sufficient width to permit angle or center parking without interfering with the free movement of traffic.

(D) The City Council may prohibit or restrict stopping, standing, or parking on highways under its jurisdiction and erect and maintain proper and adequate signs thereon. No person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs.

(Neb. RS 60-6,167)

(E) Where stalls are designated either on the curb or pavement, vehicles shall be parked within those stalls.

(F) Vehicles must not be parked at any curb in such a position as to prevent another vehicle already parked at the curb from moving away.

Penalty, see § 70.99

**§ 72.13 BACKING FREIGHT VEHICLE TO CURB.**

The operator of a vehicle of an over-all length of less than 20 feet, including load, while loading or unloading freight may back the vehicle to the curb but shall occupy as little of the street as possible. Penalty, see § 70.99

**§ 72.14 UNATTENDED MOTOR VEHICLE.**

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended on a highway without first stopping the motor of such vehicle, locking the ignition, removing the key from the ignition, and effectively setting the brakes thereon and, when standing upon any roadway, turning the front wheels of such vehicle to the curb or side of such roadway. (Neb. RS 60-6,168) Penalty, see § 70.99

**§ 72.15 PAINTING OF CURBS.**

(A) The curb space within 15 feet in either direction of a fire hydrant shall be painted red, or another color specified by the City Council, to indicate that parking is prohibited in such area.

(B) If the City Council adopts a resolution regulating or prohibiting the parking or stopping of vehicles at the curb on highways in front of certain facilities or at certain locations, the curbs adjacent to any such facility or location shall be painted in such manner as directed by the City Council to indicate such regulation or prohibition.

(C) It shall be the duty of the City Council or its agent to cause the curb space to be painted and to keep the same painted as provided in this chapter or as specified by the City Council. The marking or designating of portions of highways where the parking of vehicles is prohibited or limited shall be done only by the city through its proper officers, at the direction of the City Council. No person shall paint the curb of any highway or in any manner set aside, or attempt to prevent the parking of vehicles in, any highway or part thereof, except at such places where the parking of vehicles is prohibited by the provisions of this chapter or by a resolution adopted by the City Council. Penalty, see § 70.99

***ADMINISTRATION AND ENFORCEMENT***

**§ 72.50 TICKETS.**

All tickets issued for violations of nonmoving traffic regulations contained in this chapter shall, in addition to information normally stated on such tickets, carry the following information:

- (A) The amount of the fine if paid within 30 days;
- (B) The amount of the fine if not paid within 30 days;
- (C) The location where payment may be made; and
- (D) The fact that a complaint will be filed after 30 days if the fine is not paid in that time.

**§ 72.51 REMOVAL OF ILLEGALLY STOPPED VEHICLES; LIABILITY FOR COSTS.**

(A) Whenever any peace officer, or any authorized employee of a law enforcement agency who is employed by the city and specifically empowered by ordinance to act, finds a vehicle standing upon a highway in violation of any of the provisions of this chapter, the individual may remove the vehicle, have such vehicle removed, or require the driver or other person in charge of the vehicle to move such vehicle to a position off the roadway of the highway or from the highway.

(B) The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any towing or storage fee shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of the vehicle until the charges are paid. The lien provided for in this section shall not apply to the contents of any vehicle.

(Neb. RS 60-6,165)

**TITLE IX: GENERAL REGULATIONS**

Chapter

**90. LEISURE AND RECREATION**

**91. HEALTH AND SAFETY**

**92. PUBLIC WAYS AND PROPERTY**

**93. ANIMALS**

*Cross-reference:*

*Local legislation regarding these topics, see Title XVII*



## CHAPTER 90: LEISURE AND RECREATION

### Section

#### *Parks and Recreational Facilities*

- 90.01 Operation and funding
- 90.02 Injury to property

#### *Library*

- 90.15 Funding
- 90.16 Library Board; general powers and duties
- 90.17 Grounds and building
- 90.18 Sale and conveyance of real estate
- 90.19 Mortgages; release or renewal
- 90.20 Cost of use
- 90.21 Discrimination prohibited
- 90.22 Annual report
- 90.23 Penalties; recovery; disposition
- 90.24 Donations
- 90.25 Improper book removal

### ***PARKS AND RECREATIONAL FACILITIES***

#### **§ 90.01 OPERATION AND FUNDING.**

(A) If the city has already acquired or hereafter acquires land for park purposes or recreational facilities or has already built or hereafter builds swimming pools, recreational facilities, or dams, the Mayor and City Council may each year make and levy a tax upon the taxable value of all the taxable property in the city. The levy shall be collected and put into the city treasury and shall constitute the park and recreation fund of the city. The funds so levied and collected shall be used for amusements, for laying out, improving, and beautifying such parks, for maintaining, improving, managing, and beautifying such swimming pools, recreational facilities, or dams, and for the payment of salaries and wages of persons employed in the performance of such labor.

(Neb. RS 17-951)

(B) If the Mayor and City Council create a Board of Park Commissioners or Board of Park and Recreation Commissioners, when such Board has been appointed and qualified, all accounts against the park fund or park and recreation fund, as the case may be, shall be audited by the Board, and warrants against the fund shall be drawn by the Chairperson of the Board, and warrants so drawn shall be paid by the City Treasurer out of the fund.

(Neb. RS 17-952)

(C) (1) Whether the title to real estate for parks, public grounds, swimming pools, or dams, either for recreational or conservational purposes, shall be acquired by gift, devise, or purchase as provided in Neb. RS 17-948, the jurisdiction of the City Council or Park Board shall at once be extended over such real estate; and the City Council or Park Board shall have power to enact bylaws, rules or ordinances for the protection and preservation of any real estate acquired as herein contemplated, and to provide rules and regulations for the closing of the park or swimming pool, in whole or in part, to the general public, and charge admission thereto during such closing, either by the city or by any person, persons, or corporation leasing same. They may provide suitable penalties for the violation of such bylaws, rules, or ordinances; and the police power of the city shall be at once extended over the same.

(Neb. RS 17-949)

(2) The Park Board shall not enter into a contract of any nature that 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 City Council prior to the contractual agreement.

*Statutory reference:*

*Levy limits, see Neb. RS 77-3442*

*Parks and recreational facilities generally, see Neb. RS 17-948 through 17-952*

## **§ 90.02 INJURY TO PROPERTY.**

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub in any city park or recreational facility. 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 any city park or recreational area. No person shall commit any waste on or litter the city parks or other public grounds.

Penalty, see § 10.99

*Statutory reference:*

*Littering of public and private property, see Neb. RS 28-523*

***LIBRARY***

**§ 90.15 FUNDING.**

(A) (1) If the City Council has established a public library free of charge for the use of the inhabitants of the city or contracted for the use of a public library already established, the Council may levy a tax of not more than \$0.105 on each \$100 upon the taxable value of all the taxable property in the city annually to be levied and collected in like manner as other taxes in the city. The levy shall be subject to Neb. RS 77-3442 and 77-3443. The amount collected from such levy shall be known as the library fund.

(Neb. RS 51-201)

(2) The fund shall also include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing property and real estate from any source for the purpose of endowing the public library.

(B) All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance, or support of the public library shall be kept for the use of the library separate and apart from all other funds of the city, shall be drawn upon and paid out by the City Treasurer upon vouchers signed by the president of the Library Board and authenticated by the secretary of the Board, and shall not be used or disbursed for any other purpose or in any other manner. The city may establish a public library sinking fund for major capital expenditures.

(Neb. RS 51-209)

(C) Any money collected by the library shall be turned over at least monthly by the Librarian to the City Treasurer along with a report of the sources of the revenue.

**§ 90.16 LIBRARY BOARD; GENERAL POWERS AND DUTIES.**

(A) The Library Board shall have the power to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the library and reading room as it may deem expedient, not inconsistent with Neb. RS 51-201 through 51-219.

(Neb. RS 51-205)

(B) The Library Board shall have exclusive control of expenditures, of all money collected or donated to the credit of the library fund, of the renting and construction of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose.

(Neb. RS 51-207)

(C) The Library Board may erect, lease, or occupy an appropriate building for the use of such a library, and appoint a suitable librarian and assistants, fix the compensation of such appointees, and remove such appointees at the pleasure of the Board. The governing body of the city shall approve any

personnel administrative or compensation policy or procedure before implementation of such policy or procedure by the Library Board.

(D) The Library Board may establish rules and regulations for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. The Library Board may fix and impose, by general rules, penalties and forfeitures for trespasses upon or injury to the library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation. The Board shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. RS 51-201 through 51-219 in establishing and maintaining the library and reading room.

(Neb. RS 51-211)

#### **§ 90.17 GROUNDS AND BUILDING.**

The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. RS 76-704 through 76-724.

(Neb. RS 51-210)

#### **§ 90.18 SALE AND CONVEYANCE OF REAL ESTATE.**

(A) The Library Board may, by resolution, direct the sale and conveyance of any real estate owned by the Board or by the public library, which is not used for library purposes, or of any real estate so donated or devised to the Board or to the library upon such terms as the Board may deem best.

(B) Before any such sale is made the Library Board shall advertise the sale once each week for 3 consecutive weeks in a legal newspaper published or, if none is published, of general circulation in the city. The notice shall set out the time, place, terms, manner of sale, legal description of such real estate, and the right to reject any and all bids. If the bid or bids have not been rejected, then the real estate shall be sold to the highest bidder for cash, and the Chairperson of the Library Board, upon resolution of the Library Board directing him or her so to do, shall convey the real estate to the purchaser of such real estate upon his or her payment of his or her bid. If within 30 days after the third publication of the notice a remonstrance against the sale is signed by 30% of the registered voters of the city voting at the last regular city election and is filed with the City Council, the property shall not then, nor within 1 year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

(Neb. RS 51-216)

**§ 90.19 MORTGAGES; RELEASE OR RENEWAL.**

The president of the Library Board shall have the power to release, upon full payment, any mortgage constituting a credit to the library fund and standing in the name of the Library Board. The signature of the president on any such release shall be authenticated by the secretary of the Board. The president and secretary in like manner, upon resolution duly passed and adopted by the Board, may renew any such mortgage.

(Neb. RS 51-206)

**§ 90.20 COST OF USE.**

(A) Except as provided in division (B) of this section, the library and reading room shall be free of charge for the use of the inhabitants of the city, subject always to such reasonable regulations as the Library Board may adopt to render the library of the greatest use to the inhabitants. The Library Board may exclude from the use of the library and reading rooms any person who willfully violates or refuses to comply with rules and regulations established for the government thereof.

(Neb. RS 51-212)

(B) The public library shall make its basic services available without charge to all residents of the city. The Board may fix and impose reasonable fees, not to exceed the library's actual cost, for nonbasic services.

(Neb. RS 51-211)

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

**BASIC SERVICES.** Include, but are not limited to, free loan of circulating print and nonprint materials from the local collection and general reference and information services.

**NONBASIC SERVICES.** Include, but are not limited to, use of:

- (a) Photocopying equipment;
- (b) Telephones, facsimile equipment, and other telecommunications equipment;
- (c) Media equipment;
- (d) Personal computers; and
- (e) Videocassette recording and playing equipment.

(Neb. RS 51-201.01)

**§ 90.21 DISCRIMINATION PROHIBITED.**

No library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status.  
(Neb. RS 51-211)

**§ 90.22 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.  
(Neb. RS 51-213)

**§ 90.23 PENALTIES; RECOVERY; DISPOSITION.**

Penalties imposed or accruing by any bylaw or regulation of the Library Board and any court costs and attorney's fees may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the Library Board. Money, other than any court costs and attorney's fees, collected in such actions shall be placed in the treasury of the city to the credit of the library fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the city and credited to the budget of the City Attorney's office.  
(Neb. RS 51-214)

**§ 90.24 DONATIONS.**

Any person may make donation of money, lands, or other property for the benefit of the public library. The title to property so donated may be made to and shall vest in the Library Board and their successors in office, and the Board shall thereby become the owners thereof in trust to the uses of the public library.  
(Neb. RS 51-215)

**§ 90.25 IMPROPER 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 public 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 an offense.

Penalty, see § 10.99



## CHAPTER 91: HEALTH AND SAFETY

### Section

#### *General Provisions*

- 91.01 Health regulations
- 91.02 Enforcement official
- 91.03 County Board of Health

#### *Nuisances*

- 91.20 Definition
- 91.21 Abatement procedure
- 91.22 Adjoining land owners; intervention before trial
- 91.23 Dead or diseased trees
- 91.24 Weeds; litter; stagnant water
- 91.25 Garbage and refuse

#### *Fire Prevention*

- 91.30 Open burning ban; waiver

### **GENERAL PROVISIONS**

#### **§ 91.01 HEALTH REGULATIONS.**

For the purpose of promoting the health and safety of the residents of the city, the Board of Health shall, from time to time, adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose.

***Statutory reference:***

*Authority to regulate, see Neb. RS 17-121*

**§ 91.02 ENFORCEMENT OFFICIAL.**

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

*Statutory reference:*

*Quarantine officer, see Neb. RS 17-121*

**§ 91.03 COUNTY BOARD OF HEALTH.**

It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the city.

***NUISANCES***

**§ 91.20 DEFINITION.**

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

***NUISANCE.*** Consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (a) Injures or endangers the comfort, repose, health, or safety of others;
- (b) Offends decency;
- (c) Is offensive to the senses;
- (d) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the city;
- (e) In any way renders other persons insecure in life or the use of property; or
- (f) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(B) *Specific definition.* The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be ***NUISANCES***:

- (1) Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl;
- (2) Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats, or which are foul or malodorous;
- (3) Filthy, littered, or trash-covered cellars, houseyards, barnyards, stableyards, factory yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises;
- (4) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the city;
- (5) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity; provided, that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the city, nor the dumping of non-putrefying waste in a place and manner approved by the health officer;
- (6) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;
- (7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw, or other packing material, lumber not neatly piled, scrap iron, tin, or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity thereof;
- (8) Any 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 either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof;
- (9) All places used or maintained as junk yards, 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;
- (10) Stagnant water permitted or maintained on any lot or piece of ground;
- (11) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens, or any other place, building, or enclosure, in which animals or fowl of any kind are confined or on which is stored tankage

or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the city or are maintained and kept in such a manner as to be injurious to the public health; or

(12) All other things specifically designated as nuisances elsewhere in this code.  
Penalty, see § 10.99

### § 91.21 ABATEMENT PROCEDURE.

(A) The owner or occupant of any real estate within the corporate limits or zoning jurisdiction of the city shall keep such real estate free of nuisances. Except to the extent that conflicting procedures are otherwise provided, the procedures in this section shall apply to abatement of nuisances.

(B) Upon determination by the Board of Health or designated official that the owner or occupant of any such real estate has failed to keep the real estate free of nuisances, notice to abate and remove such nuisance and notice of the right to a hearing before the City Council and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or by certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the real estate upon which the nuisance is to be abated and removed. The notice shall describe the condition as found by the Board of Health or designated official and state that the condition has been declared a nuisance and must be remedied at once.

(C) If within 5 days after receipt of such notice or publication or posting, whichever is applicable, the owner or occupant of the real estate does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done.

(D) If within 5 days after receipt of such notice or publication or posting, whichever is applicable, the owner or occupant requests in writing a hearing with the City Council, the Council shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the Council to show cause why such condition should not be found to be a nuisance and remedied. The notice shall be given not less than 7 nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the Council shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health or designated official. If after consideration of all the evidence, the City Council finds that the condition is a nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order to abate and remove the nuisance, the Council may have such work done.

(E) The costs and expenses of any such work shall be paid by the owner. If unpaid for 2 months after such work is done, the city may either:

(1) Levy and assess the costs and expenses of the work upon the real estate so benefitted as a special assessment in the same manner as other special assessments for improvements are levied and assessed; or

(2) Recover in a civil action the costs and expenses of the work upon the real estate and the adjoining streets and alleys.

***Statutory reference:***

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

*Nuisances prohibited, see Neb. RS 28-1321*

*Similar provisions, see Neb. RS 17-563*

*Zoning jurisdiction, Neb. RS 17-1001*

***Cross reference:***

*Authority to obtain injunction against nuisance, see § 10.99*

**§ 91.22 ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL.**

In cases of appeal from an action of the City Council condemning real property as a nuisance or as dangerous under the police powers of the city, the owners of the adjoining property may intervene in the action at any time before trial.

(Neb. RS 19-710)

**§ 91.23 DEAD OR DISEASED TREES.**

(A) (1) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the city or within its one-mile zoning jurisdiction.

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

(Neb. RS 17-555)

(B) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees on private property within the corporate limits of the city or within its one-mile zoning jurisdiction. The provisions in division (A)(2) shall apply to such nuisances. For the purpose of carrying out the provisions of this section, the city police shall have the authority to enter upon private property to inspect the trees thereon.

**§ 91.24 WEEDS; LITTER; STAGNANT WATER.**

(A) Lots or pieces of ground within the city or within its one-mile zoning jurisdiction shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the city or within its one-mile zoning jurisdiction shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the city or within its one-mile zoning jurisdiction is prohibited.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation on any lot or piece of ground within the city or within its one-mile zoning jurisdiction or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense.

(F) (1) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any. The city shall establish the method of notice by ordinance. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the City Clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by an elected or appointed officer as designated in the ordinance. The hearing officer shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have such work done. Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done.

(2) The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either:

(a) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other special taxes for improvements are levied and assessed; or

(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

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

**LITTER.** Includes but is not limited to:

- (a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;
- (b) Wood, plaster, cement, brick, or stone building rubble;
- (c) Grass, leaves, and worthless vegetation except when used as ground mulch or in a compost pile;
- (d) Offal and dead animals; and
- (e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.

**WEEDS.** Include, but are not limited to: bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).  
(Neb. RS 17-563) Penalty, see § 10.99

#### § 91.25 GARBAGE AND REFUSE.

(A) The owner, duly authorized agent, or tenant of any lot or land within the corporate limits or zoning jurisdiction of the city shall remove garbage or refuse found upon the lot or land or upon the streets, roads, or alleys abutting the lot or land which constitutes a public nuisance.

(B) Notice that removal of garbage or refuse is necessary shall be given to each owner or owner's duly authorized agent and to the tenant if any. The notice shall be provided by personal service or by certified mail. After providing the notice, the city through its proper offices shall, in addition to other proper remedies, remove the garbage or refuse, or cause it to be removed, from the lot or land and streets, roads, or alleys.

(C) If the Mayor declares that the accumulation of garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the city shall remove the garbage or refuse, or cause it to be removed, from the lot or land within 48 hours after notice by personal service or following receipt of a certified letter in accordance with division (B) of this section if the garbage or refuse has not been removed.

(D) Whenever the city removes any garbage or refuse, or causes it to be removed, from any lot or land pursuant to this section, it shall, after a hearing conducted by the City Council, assess the cost of the removal against the lot or land.

(Neb. RS 18-1752)

### ***FIRE PREVENTION***

#### **§ 91.30 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) of this section for an area under the city 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 Fire Marshal.

(C) The Fire Chief may waive the open burning ban in the city 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) of this section.

(E) The Fire Department may charge a fee not to exceed \$10 for each such permit issued. This fee shall be remitted to the City Council 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) of this section in the course of that state's or political subdivision's official duties.

(Neb. RS 81-520.01)

Penalty, see § 10.99

## CHAPTER 92: PUBLIC WAYS AND PROPERTY

### Section

#### *City Property*

- 92.01 Definitions
- 92.02 Streets, alleys, walks, malls, and other improvements
- 92.03 Maintenance and control
- 92.04 Regulation of obstructions
- 92.05 Regulation of snow, ice, and other encroachments
- 92.06 Permitted use of public street space
- 92.07 Poles, wires, and pipe lines
- 92.08 Dangerous stairways and entrances
- 92.09 Excavations and exposures; barricades and lights
- 92.10 Guttering and eave spouts
- 92.11 Prohibited obstructions
- 92.12 Trees in sidewalk space
- 92.13 Overhanging branches
- 92.14 Signs and canopies
- 92.15 Cutting into paving, curb, or sidewalk
- 92.16 Heavy equipment

#### *Sale and Acquisition of Property; Public Works*

- 92.30 Sale and conveyance; real property
- 92.31 Sale and conveyance; personal property
- 92.32 Acquisition or construction of public buildings; election requirements
- 92.33 Acquisition of real property; appraisal
- 92.34 Acquisition of real property; public meeting; access for recreational use
- 92.35 Public works involving architecture or engineering; requirements
- 92.36 Special assessments for public works or improvements; notice to nonresident property owners

#### *Sidewalks*

- 92.50 Requirement to keep clean
- 92.51 Use of space beneath
- 92.52 Construction at owner's initiative
- 92.53 Construction and repair at village direction

*Streets and Alleys*

- 92.65 Dedication to public use
- 92.66 Grading, paving, and other improvements
- 92.67 Improvements without petition or creation of district
- 92.68 Opening, widening, improving, or vacating
- 92.69 Vacating public ways; procedure
- 92.70 Crossings
- 92.71 Names and numbers
- 92.72 Driveway approaches
- 92.73 Excavation
- 92.74 Driving stakes
- 92.75 Mixing concrete
- 92.76 Harmful liquids
- 92.77 Snow, debris, and the like on street prohibited

**CITY PROPERTY****§ 92.01 DEFINITIONS.**

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

**OVERSEER OF STREETS.** The city official with general charge, direction, and control of streets and sidewalks. If one official is responsible for streets and another official is responsible for sidewalks, **OVERSEER OF STREETS** shall mean whichever one is appropriate in the context the term is used.

**SIDEWALK SPACE.** The portion of a street between curb lines and adjacent property lines.

**§ 92.02 STREETS, ALLEYS, WALKS, MALLS, AND OTHER IMPROVEMENTS.**

The City Council may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravels, macadamize, remacadamize, widen, or narrow streets or roadways, resurface or re-lay existing pavement, or otherwise improve any streets, alleys, public grounds, public ways, entirely or partially, and streets which divide the city corporate area and the area adjoining the city; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefitted in proportion to such benefits, except as provided in Neb. RS 19-2428 through 19-2431. The City Council may by ordinance create paving, repaving, grading, curbing, recurbing, resurfacing, graveling, or improvement districts, to be consecutively numbered, which may include 2 or more connecting or intersecting streets, alleys, or public ways, and

may include 2 or more of the improvements in 1 proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefitted shall be ordered as provided in Neb. RS 17-510 to 17-512, except as otherwise provided in Neb. RS 17-509.

(Neb. RS 17-509)

*Statutory reference:*

*Other provisions on improvements, assessments, and bonds, see Neb. RS 17-513 to 17-524, 18-1751, 19-2401, and 19-2408 to 19-2415*

**§ 92.03 MAINTENANCE AND CONTROL.**

The City Council shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the city and shall cause the same to be kept open and in repair and free from nuisances.

(Neb. RS 17-567)

**§ 92.04 REGULATION OF OBSTRUCTIONS.**

(A) The city shall have the power to remove all obstructions from the sidewalks, curbstones, gutters, and crosswalks at the expense of the person placing them there or at the expense of the city and to require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

(B) The city shall have the power to regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows, doorways, awnings, hitching posts and rails, lampposts, awning posts, all other structures projecting upon or over and adjoining, and all other excavations through and under the sidewalks in the city.

(Neb. RS 17-555)

**§ 92.05 REGULATION OF SNOW, ICE, AND OTHER ENCROACHMENTS.**

(A) The city shall have power to prevent and remove all encroachments, including snow, ice, mud or other obstructions, into and upon all sidewalks, streets, avenues, alleys, and other city property.

(Neb. RS 17-557)

(B) If the abutting property owner refuses or neglects, after five days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, as provided in division (A), the city through the proper officers may cause such encroachments to be removed, and the cost of removal shall be paid out of the street fund. The City Council shall assess the cost of the notice and removal of the encroachment against the abutting property as a special assessment. The special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as a special assessment in addition to the general revenue taxes and shall be

subject to the same penalties as other special assessments and shall draw interest from the date of the assessment. Upon payment of the assessment, the assessment shall be credited to the street fund. (Neb. RS 17-557.01)

#### **§ 92.06 PERMITTED USE OF PUBLIC STREET SPACE.**

Any person engaged in the erection, construction, reconstruction, wrecking, or repairing of any building, or the construction or repair of a sidewalk along any street, may occupy the public street space with the building material and equipment as long as is necessary if such person makes application to and receives a permit to do so in writing from the Overseer of Streets. No permit shall authorize the occupancy of more than 1/3 of the roadway of the public space adjacent to the real estate on which the building or sidewalk is to be erected, constructed, reconstructed, wrecked, or repaired. A suitable passageway for pedestrians shall be maintained within the public space included in the permit, which passageway shall be protected and lighted in the manner required by the Overseer of Streets. Penalty, see § 10.99

#### **§ 92.07 POLES, WIRES, AND PIPE LINES.**

(A) Poles, wires, conduits, gas mains, pipe lines, and other appurtenances of public service companies shall be located or erected over, upon, or under the streets, alleys, and common grounds of the city. Application for location of such appurtenances shall be made to the City Council in writing. Approval by the Council shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, wires, conduits, gas mains, pipe lines, or other appurtenances shall at all times erect and locate their appurtenances at such places and in such manner as shall be designated by the Council.

(B) All poles, wires, conduits, gas mains, pipe lines, and other appurtenances shall be removed or relocated by the companies at their own expense when requested to do so by the Council. Any such removal or relocation shall be ordered by resolution of the Council and the City Clerk shall notify any and all companies affected. The companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, conduits, gas mains, pipe lines, or other appurtenances to be removed or relocated. The Council shall designate another location as closely as possible where the appurtenances may be reset or placed.

(C) All poles, wires, conduits, gas mains, pipe lines, or other appurtenances shall be reset, placed, or erected in such a manner that they will not interfere with the water system; the sewerage system; any poles, wires, conduits, mains, lines, or other appurtenances of any public utility; any adjacent buildings; or travel on the public ways and property. Whenever possible, all poles, wires, conduits, gas mains, pipe lines, and appurtenances shall be confined to the alleys of the city.

**§ 92.08 DANGEROUS STAIRWAYS AND ENTRANCES.**

It shall be unlawful for any person to construct or maintain any stairway, open cellarway, open basement way, or open entrance thereto in or adjacent to any sidewalk, pavement, or street, and any such entrance is hereby declared to be a public nuisance, except that all existing stairways, open cellarways, open basement ways, or open entrances thereto in or adjacent to sidewalks, pavements, or streets may be permitted to remain from and after the adoption of this prohibition if the person owning or using the opening in the sidewalk, pavement, or street satisfies the Overseer of Streets that the opening is properly protected by a balustrade, or coping of durable material, and furnishes the city with a bond in the amount set by the City Council for the benefit of any person who might suffer an injury or damage by reason of the use of the stairway, cellarway, basement way, or entrance.

**§ 92.09 EXCAVATIONS AND EXPOSURES; BARRICADES AND LIGHTS.**

Any owner or occupant engaged in construction or demolition of any building or improvement upon or near the public ways and property shall protect all excavations or exposures of any kind by suitable barricades or guards by day and by warning lights at night. The failure, neglect, or refusal of the owner or occupant to erect and maintain such protections shall constitute a violation of this section, and the city may stop all work upon the buildings and improvements until suitable protections are erected and maintained in the required manner.

**§ 92.10 GUTTERING AND EAVE SPOUTS.**

It shall be unlawful for any person to erect or maintain any dwelling house or business building within the limits of the city where the dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that collect on the sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain the eave spouts into the alley.

**§ 92.11 PROHIBITED OBSTRUCTIONS.**

(A) It shall be unlawful for any person to obstruct, or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks.

(B) The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property permits or suffers to remain on any premises owned or controlled by him or her any hedge, shrubbery, bush, or similar growth within 2 feet adjacent to the lot line, whether there is a sidewalk abutting or adjoining the premises or not. It shall be the duty of owners and occupants to at all times keep trimmed and pruned all such similar growth.

(C) Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, and interfering with the use, making, or construction of any public improvement or so that the roots thereof interfere with any utility wire or pipe shall be deemed an obstruction. Such trees and shrubs and their roots may be removed by the city at the expense of the owner of the property upon which the trees or shrubs are partially or wholly located if the owner fails or neglects, after notice, to do so.

(D) When any obstruction described in this section is determined to exist, the city may proceed against the owner or occupant of the property adjacent to the sidewalk space as provided in § 91.21. Penalty, see § 10.99

#### **§ 92.12 TREES IN SIDEWALK SPACE.**

(A) No person shall plant any tree or allow any tree to grow within the sidewalk space without first making a written or verbal application to and receiving a written permit from the Overseer of Streets upon payment of the fee, if any, established by the City Council.

(B) Any tree planted within the sidewalk space after the adoption of this prohibition shall be deemed to be unlawfully planted and growing and may be determined to be a nuisance. Nothing in this section shall be construed to apply to any trees growing within the sidewalk space prior to the adoption of this prohibition.

(C) When any such tree is determined to be a nuisance, the city may proceed against the owner or occupant of the property adjacent to the sidewalk space as provided in § 91.21. Penalty, see § 10.99

#### **§ 92.13 OVERHANGING BRANCHES.**

(A) The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which there extend the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least 8 feet above the surface of the walk and at least 14 feet above the surface of the street or to the heights otherwise specified by the City Council.

(B) Whenever the branches or limbs of any tree extend over streets or sidewalks contrary to such provisions so as to interfere with the lighting of the street from street lights or with the convenience of the public using the street or sidewalk, the city may proceed against the owner or occupant of the property abutting or adjacent to the street or sidewalk as provided in § 91.21. Penalty, see § 10.99

**§ 92.14 SIGNS AND CANOPIES.**

(A) No person shall erect or maintain any sign, signboard, poster, or rigid canopy over any street, sidewalk, or alley or on other public property without having first obtained a permit therefor. Permits for signs, signboards, posters, and canopies shall be issued by the City Clerk, subject to the approval of the Overseer of Streets, upon the payment of the fee, if any, established by the City Council.

(B) All signs, signboards, posters, and canopies extending over any public sidewalk, street, alley, or other public place must be securely fastened and constructed so that there will be no danger of the them being dislodged by ordinary winds or falling from other causes.

(C) No sign, signboard, poster, or canopy shall be erected or maintained which extends over any public sidewalk, street, alley, or other public place in such a location as to obstruct the view of any traffic light, sign, or signal.

(D) Upon a determination that a sign, signboard, poster, or canopy is in violation of this section, the city may proceed against the owner or occupant of the premises where such the sign, signboard, poster, or canopy is located as provided in § 91.21.  
Penalty, see § 10.99

**§ 92.15 CUTTING INTO PAVING, CURB, OR SIDEWALK.**

(A) It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the City Council. Before any person obtains a permit, he or she shall inform the City Clerk of the place where such cutting is to be done and it shall be the duty of the Overseer of Streets to inspect the proposed place of entry into the paving, sidewalk, or curb.

(B) When cutting into any paving, curb, or sidewalk, it shall be the duty of the party to comply with such rules and regulations as may be prescribed by the Council or the City Engineer. When the applicant is ready to close the opening made, he or she shall inform the Overseer of Streets, who shall supervise and inspect the materials used and the work done in closing the opening.

(C) It shall be discretionary with the Council to order the Overseer of Streets, under the supervision and inspection of the City Engineer or the committee of the Council on the streets and alleys, to do the cutting and closing of the paving, curb, or sidewalk and charge the costs thereof to the party who obtained the permit. The Council may consent to the cutting and closing of the paving, curb, or sidewalk by the party holding the permit.

(D) Before any permit is issued by the Council, the applicant for the permit shall deposit with the City Treasurer a sum set by resolution of the Council for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per square foot cost of construction basis. The deposit shall be retained by the city for the purpose of replacing the paving, curb, or sidewalk in the event the work is done by the city. If the Board elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be

retained by the city until the work is completed to the satisfaction of the Overseer of Streets or of the committee of the Council on streets and alleys.

(E) In addition to making the deposit, the applicant shall, before any permit is issued, execute a bond to the city with a good and sufficient surety to be approved by the Council in a sum set by resolution.

#### **§ 92.16 HEAVY EQUIPMENT.**

(A) It shall be unlawful for any person to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing.

(B) Except as provided in § 71.05, it shall be unlawful to run, drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon the pavement; with wheels having cutting edges; with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb, except that where heavy vehicles, structures, and machines move along paved or unpaved streets the city police are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed.

### ***SALE AND ACQUISITION OF PROPERTY; PUBLIC WORKS***

#### **§ 92.30 SALE AND CONVEYANCE; REAL PROPERTY.**

(A) Except as provided in division (G) of this section, the power of the city to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of that property and the manner and terms thereof, except that the property shall not be sold at public auction or by sealed bid when:

- (1) The property is being sold in compliance with the requirements of federal or state grants or programs;
- (2) The property is being conveyed to another public agency; or
- (3) The property consists of streets and alleys.

(B) The City Council may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(C) After the passage of the resolution directing the sale, notice of all proposed sales of property described in division (A) of this section and the terms thereof shall be published once each week for 3 consecutive weeks in a legal newspaper published in or of general circulation in the city.

(D) (1) If within 30 days after the third publication of the notice a remonstrance against the sale is signed by registered voters of the city equal in number to 30% of the registered voters of the city voting at the last regular city election held therein and is filed with the City Council, that property shall not then, nor within 1 year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

(2) Upon the receipt of the remonstrance, the City Council, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The City Council shall deliver the remonstrance to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested.

(3) Upon receipt of the remonstrance, the Election Commissioner or County Clerk shall issue to the City Council a written receipt that the remonstrance is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the City Council. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and city or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and city or post office address match the registration records and that the registration was received on or before the date on which the remonstrance was filed with the City Council. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the City Council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process.

(4) Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of the signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only 1 person is registered by that name, the Election Commissioner or County

Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

(5) The Election Commissioner or County Clerk shall certify to the City Council the number of valid signatures necessary to constitute a valid remonstrance. The Election Commissioner or County Clerk shall deliver the remonstrance and the certifications to the City Council within 40 days after the receipt of the remonstrance from the City Council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than 20 signatures on 1 signature page shall be counted.

(6) The City Council shall, within 30 days after the receipt of the remonstrance and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The City Council shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

(E) Real estate now owned or hereafter owned by the city may be conveyed without consideration to the state for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. RS 18-1001 through 18-1006.

(F) Following passage of the resolution directing a sale, publishing of the notice of the proposed sale, and passing of the 30-day right-of-remonstrance period, the property shall then be sold. The sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. (Neb. RS 17-503)

(G) Divisions (A) through (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than \$5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in 3 prominent places within the city for a period of not less than 7 days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (Neb. RS 17-503.01)

### **§ 92.31 SALE AND CONVEYANCE; PERSONAL PROPERTY.**

(A) The power of the city to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in 3 prominent places within the city for a period of not less than 7 days prior to the sale of the property. If the fair market value of the property is greater than \$5,000, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in the city at least 7 days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale.

(B) Personal property may be conveyed notwithstanding the procedure in division (A) of this section when:

(1) Such property is being sold in compliance with the requirements of federal or state grants or programs; or

(2) Such property is being conveyed to another public agency.  
(Neb. RS 17-503.02)

**§ 92.32 ACQUISITION OR CONSTRUCTION OF PUBLIC BUILDINGS; ELECTION REQUIREMENTS.**

(A) The city is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, city building, or community house for housing city enterprises and social and recreation purposes, and other public buildings, including the construction of buildings authorized to be constructed by Neb. RS Chapter 72, article 14, and including construction of buildings to be leased in whole or in part by the city to any other political or governmental subdivision of the state authorized by law to lease such buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the city.

(B) Except as provided in division (C) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the city at a general city election or at an election duly called for that purpose, or as set forth in division (D) of this section, and be adopted by a majority of the electors voting on such question.  
(Neb. RS 17-953)

(C) If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

(1) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the city and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice, a remonstrance against the purchase or construction is signed by registered voters of the city equal in number to 15% of the registered voters of the city voting at the last regular city election held therein and is filed with the City Council. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the city at a general city election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within 1 year following the election, be purchased or constructed; or

(2) The City Council may proceed without providing the notice and right of remonstrance required in division (C)(1) of this section if the property can be purchased below the fair market value

as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000. The purchase shall be approved by the City Council after notice and public hearing as provided in § 92.34. (Neb. RS 17-953.01)

(D) (1) The Mayor and City Council adopting the proposition to make such purchase or erect such building or buildings for the purposes set forth in division (A) of this section shall have the power to borrow money and pledge the property and credit of the city upon its negotiable bonds. No such bonds shall be issued until after the same have been authorized by a majority vote of the electors voting on the proposition of their issuance, at a general city election or at a special election called for the submission of such proposition. The question of such purchase or erection of such a building or buildings, as set forth in division (A) of this section, and the question of the issuance of the negotiable bonds referred to in this division may be submitted as 1 question at a general city or special election if so ordered by resolution or ordinance.

(2) Notice of the time and place of the election shall be given by publication in some legal newspaper printed in or of general circulation in the city 3 successive weeks immediately prior thereto.

(3) No such election for the issuance of such bonds shall be called until a petition therefor signed by at least 10% of the legal voters of the city has been presented to the City Council. The number of voters voting at the last regular city election prior to the presenting of the petition shall be deemed the number of votes in the city for the purpose of determining the sufficiency of the petition.

(4) The question of bond issues for such purpose in the city when defeated shall not be resubmitted for 6 months from and after the date of such election.

(5) When the building to be constructed is to be used by the state or its agency or agencies under a lease authorized by Neb. RS Chapter 72, article 14, or the building is to be leased by any other political or governmental subdivision of the state, when the combined area of the building to be leased by the state or its agency or agencies and the political or governmental subdivision of the state is more than 50% of the area of the building, and when such sum does not exceed \$2,000,000, then no such vote of the electors will be required.

(Neb. RS 17-954)

### § 92.33 ACQUISITION OF REAL PROPERTY; APPRAISAL.

Notwithstanding any other provision of law, the city shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of \$100,000 or more unless an appraisal of such property has been performed by a certified real property appraiser.

(Neb. RS 13-403)

**§ 92.34 ACQUISITION OF REAL PROPERTY; PUBLIC MEETING; ACCESS FOR RECREATIONAL USE.**

(A) The city shall acquire an interest in real property by purchase or eminent domain only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing.

(B) The city shall provide to the public a right of access for recreational use to real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowner adjacent to the real property.

(Neb. RS 18-1755)

**§ 92.35 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS.**

(A) (1) Except as otherwise provided in this section and Neb. RS 81-3449 and 81-3453, the city shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

(2) This division (A) shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed \$100,000 or the adjusted dollar amount set by the Board of Engineers and Architects.

(Neb. RS 81-3445)

(B) The provisions of division (A) of this section regulating the practice of architecture do not apply to the following activities or the other activities specified in Neb. RS 81-3449:

(1) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(2) A public service provider who employs a design professional performing professional services for itself;

(3) The practice of any other certified trade or legally recognized profession;

(4) Earthmoving and related work associated with soil and water conservation practices performed any land owned by the city that is not subject to a permit from the Department of Natural Resources; and

(5) The work of employees and agents of the city performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

(Neb. RS 81-3449)

(C) The provisions of division (A) of this section regulating the practice of engineering do not apply to the following activities, the activities specified in division (B) of this section, or the other activities specified in Neb. RS 81-3453:

(1) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant; and

(2) The construction of water wells as defined in Neb. RS 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the city to be designed or supervised by an engineer or unless legal requirements are imposed upon the city as a part of a public water supply; (Neb. RS 81-3453)

(D) For the purpose of this section, the city is considered a public service provider if it employs or appoints an architect or a professional engineer to be in responsible charge of the city's architectural or engineering work.

(Neb. RS 81-3423)

#### **§ 92.36 SPECIAL ASSESSMENTS FOR PUBLIC WORKS OR IMPROVEMENTS; NOTICE TO NONRESIDENT PROPERTY OWNERS.**

(A) Before any political subdivision or special taxing district for public works or public improvements shall be formed, and before the city or any political subdivision or special taxing district may impose any special assessment for public works or public improvements, a copy of any notice required to be published by law shall be mailed to the last-known address of all nonresident property owners as shown on the current tax rolls at the time such notice is first published.

(Neb. RS 13-310)

(B) The City Clerk or any other person upon whom the duty is imposed by law to publish notice required by law in regard to the formation of a special taxing district for public works or public improvements shall mail by certified mail with return receipt requested a copy of the published notice in regard to the formation of any special taxing district within the city to the last-known address as shown on the current tax rolls of each nonresident property owner.

(Neb. RS 13-311)

(C) The City Clerk or any other person upon whom the duty is imposed by law to publish notice required by law in regard to any special assessment by a special taxing district shall mail by certified mail with return receipt requested a copy of such notice to be published to the last-known address as shown on the current tax rolls of each nonresident property owner.

(Neb. RS 13-312)

(D) The failure of the City Clerk any other person upon whom the duty is imposed by law to mail a copy of a published notice as provided in this section shall invalidate the assessment against the property involved while permitting all other assessments and procedures to be lawful.

(Neb. RS 13-313)

(E) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***NONRESIDENT PROPERTY OWNER.*** Any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county and who is a record owner of property within the boundaries of the city, special assessment district, or taxing district involved.

(Neb. RS 13-314)

### ***SIDEWALKS***

#### **§ 92.50 REQUIREMENT TO KEEP CLEAN.**

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon the sidewalk. Unless the City Council has provided otherwise, all sidewalks within the business district shall be cleaned within 5 hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 9:00 a.m. the following day, and sidewalks within the residential areas of the city shall be cleaned within 24 hours after the cessation of the storm.

Penalty, see § 10.99

#### **§ 92.51 USE OF SPACE BENEATH.**

No person shall be allowed to keep or use the space beneath the sidewalk lying between lot line and curb line unless a permit has been obtained from the City Council. Before any permit is granted, the applicant shall submit plans and specifications of any present or proposed construction to the City Engineer. If the plans or specifications are disapproved by the Engineer, no permit shall be granted. All permits hereafter granted shall continue only upon the condition that the party receiving them builds, maintains, and keeps in repair a sidewalk over the space used or constructed to be used and pays all

damages that may be sustained by any person by reason of such use or by reason of the sidewalk being defective or in a dangerous condition. As a condition precedent to the issuance or continuance of any permit for the use of any space underneath the city sidewalks as contemplated in this section, the City Council may require the applicant to furnish a bond to the city as obligee for the benefit of any person who may suffer an injury or damage by reason of such use. The bond shall be in such sum as the City Council, in its discretion, may designate.

Penalty, see § 10.99

#### **§ 92.52 CONSTRUCTION AT OWNER'S INITIATIVE.**

(A) Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as provided in this section. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

(B) The owner shall make application in writing for a permit and file such application in the office of the City Clerk. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The Overseer of Streets shall issue the desired permit unless good cause appears why the permit should be denied, except that if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the Overseer of Streets shall submit the application to the City Council for determination as to whether the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed, such sidewalk at any other location, grade, or elevation than so designated by the city. All sidewalks shall be built and constructed on the established grade or elevation, and if there is no established grade, then on the grade or elevation indicated by the Overseer of Streets.

#### **§ 92.53 CONSTRUCTION AND REPAIR AT CITY DIRECTION.**

(A) (1) The Mayor and City Council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as the Mayor and City Council deem necessary and assess the expense thereof on the property in front of which such construction or repairs are made, after having given notice:

(a) By publication in one issue of a legal newspaper of general circulation in the city; and

(b) By either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises 10 days prior to the commencement of such construction or repair.

(2) The powers conferred under this section are in addition to those provided in Neb. RS 17-509 to 17-521 and may be exercised without creating an improvement district.

(3) If the owner of any property abutting any street or avenue or part thereof fails to construct or repair any sidewalk in front of the owner's property within the time and in the manner as directed and

requested by the Mayor and City Council, after having received due notice to do so, the Mayor and City Council may cause the sidewalk to be constructed or repaired and may assess the cost thereof against the property.

(Neb. RS 17-522)

(B) All sidewalks shall be constructed and repaired in conformity with such plans and specifications as may be approved by the City Council.

(C) Assessments made under the provisions of this section shall be made and assessed in the following manner:

(1) Such assessment shall be made by the City Council at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and the amount charged against the same, which, with the vote thereon by yeas and nays, shall be spread at length upon the minutes; and notice of the time of holding such meeting and the purpose for which it is to be held, shall be published in some newspaper published or of general circulation in the city at least 4 weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed; and

(2) All such assessments shall be known as special assessments for improvements and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other city taxes.

(Neb. RS 17-524)

*Statutory reference:*

*Authority to improve through sidewalk district, see Neb. RS 19-2417 through 19-2419*

## ***STREETS AND ALLEYS***

### **§ 92.65 DEDICATION TO PUBLIC USE.**

No street or alley which shall hereafter be dedicated to public use, by the proprietor of ground in the city, shall be deemed a public street or alley, or be under the use or control of the City Council, unless the dedication shall be accepted and confirmed by an ordinance especially passed for such purpose.

(Neb. RS 17-567)

**§ 92.66 GRADING, PAVING, AND OTHER IMPROVEMENTS.**

The city has the power to provide for the grading and repair of any street, avenue, or alley and the construction of bridges, culverts, and sewers. No street, avenue, or alley shall be graded unless the grading is ordered to be done by the affirmative vote of 2/3 of the City Council.

(Neb. RS 17-508)

***Cross reference:***

*Other provisions on grading and paving, see § 92.02*

***Statutory reference:***

*Acquisition of additional land or easement, see Neb. RS 18-1705*

*Boundary street with county or another municipality, see Neb. RS 18-2005*

*Limited street improvement districts, see Neb. RS 19-2416*

**§ 92.67 IMPROVEMENTS WITHOUT PETITION OR CREATION OF DISTRICT.**

(A) The city may, without petition or creating a street improvement district, grade, curb, gutter, and pave:

(1) Any portion of a street otherwise paved so as to make 1 continuous paved street, but the portion to be so improved shall not exceed 2 blocks, including intersections, or 1,325 feet, whichever is the lesser;

(2) Any unpaved street or alley which intersects a paved street for a distance of not to exceed 1 block on either side of that paved street; and

(3) Any side street or alley within its corporate limits connecting with a major traffic street for a distance not to exceed 1 block from that major traffic street.

(B) Those improvements may be performed upon any portion of a street or alley or any unpaved street or alley not previously improved to meet or exceed the minimum standards for pavement set by the city for its paved streets.

(C) In order to defray the costs and expenses of these improvements, the Mayor and City Council may levy and collect special taxes and assessments or issue paving bonds as provided in Neb. RS 18-2003.

(Neb. RS 18-2001 through 18-2004)

**§ 92.68 OPENING, WIDENING, IMPROVING, OR VACATING.**

(A) (1) The city shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the city and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the city, or by the owners of the property therein, shall be ascertained in that manner as shall be provided by ordinance.

(2) Whenever any street, avenue, alley, or lane is vacated, the same shall revert to the owners of the abutting real estate, 1/2 on each side thereof, and become a part of that property, unless the city reserves title in the ordinance vacating such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(3) When a portion of a street, avenue, alley, or lane is vacated only on 1 side of the center thereof, the title to the land shall vest in the owner of the abutting property and become a part of that property, unless the city reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(4) When the city vacates all or any portion of a street, avenue, alley, or lane, the city shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the Register of Deeds for the county in which the vacated property is located to be indexed against all affected lots.

(5) The title to property vacated pursuant to this section shall be subject to the following:

(a) There is reserved to the city the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and

(b) There is reserved to the city, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

(Neb. RS 17-558)

(B) The city shall have power to create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way, or annul, vacate, or discontinue the same.

(Neb. RS 17-559)

**§ 92.69 VACATING PUBLIC WAYS; PROCEDURE.**

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

***SPECIAL DAMAGES.*** Only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his or her property and which result from the City Council vacating a street, avenue, alley, lane, or similar public way. ***SPECIAL DAMAGES*** shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the city or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the city or public at large.

(B) Whenever the City Council decides that it would be in the best interests of the city to vacate a street, avenue, alley, lane, or similar public way, the City Council shall comply with the following procedure.

(1) ***Notice.*** Notice shall be given to all abutting property owners either by first class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the city. The content of the notice shall advise the abutting property owners that the City Council will consider vacating that street, avenue, alley, lane, or similar public way at its next regular meeting, or, if a special meeting is scheduled for the discussion, then the date, time, and place of that meeting.

(2) ***Consent; waiver.*** The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the City Council and waive their right of access. The signing of this form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the City Council's action was proper. If the abutting property owners do not sign the consent/waiver form, the City Council may still proceed with vacating the street, avenue, alley, lane, or similar public way under the authority granted by Neb. RS 17-558 and 17-559.

(3) ***Ordinance.*** The City Council shall pass an ordinance that includes essentially the following provisions:

- (a) A declaration that the action is expedient for the public good or in the best interests of the city;
- (b) A statement that the city will have an easement for maintaining all utilities; and
- (c) A method or procedure for ascertaining special damages to abutting property owners.

(C) The Mayor shall appoint 3 or 5 or 7 disinterested residents of the city to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the City Council vacating the street, avenue, alley, lane, or similar public way. The

appointees of the special commission shall be approved by the City Council. Only special damages shall be awarded to the abutting property owners.

(D) In determining the amount of compensation to award the abutting property owners as special damages, the commission shall use the following rule:

An abutting property owner is entitled to recover as compensation the difference between the value of the property immediately before and immediately after the vacating of the street, avenue, alley, lane, or similar public way. If no difference in value exists, the abutting property owner is entitled to no compensation.

**§ 92.70 CROSSINGS.**

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

**§ 92.71 NAMES AND NUMBERS.**

The City Council may at any time, by ordinance, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along those streets shall retain those numbers as the City Council may require. It shall be the duty of the Overseer of Streets, upon the erection of any new building, to assign the proper numbers to the building and give notice to the owner and occupant of the same.

Penalty, see § 10.99

**§ 92.72 DRIVEWAY APPROACHES.**

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

(B) The City Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of the owner or the agent of the owner, directing the repair or replacement of the driveway approach. If within 30 days of mailing the notice the property owner fails or neglects to cause the repairs or replacements to be made, the Overseer of Streets may cause the work to be done and assess the cost upon the property served by the approach.

(Neb. RS 18-1748) Penalty, see § 10.99

**§ 92.73 EXCAVATION.**

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the Overseer of Streets authorizing those excavations.  
Penalty, see § 10.99

**§ 92.74 DRIVING STAKES.**

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Overseer of Streets.  
Penalty, see § 10.99

**§ 92.75 MIXING CONCRETE.**

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.  
Penalty, see § 10.99

**§ 92.76 HARMFUL LIQUIDS.**

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon the streets.  
Penalty, see § 10.99

**§ 92.77 SNOW, DEBRIS, AND THE LIKE ON STREET PROHIBITED.**

It shall be unlawful to place, push, or deposit snow, sleet, ice, or mud, or any debris, including leaves, grass, and branches, from private property onto the streets of the city.  
Penalty, see § 10.99

*Statutory reference:*

*Authority to regulate, see Neb. RS 17-557*

## CHAPTER 93: ANIMALS

### Section

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**GENERAL PROVISIONS****§ 93.01 DEFINITIONS.**

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

**ANIMAL.** Any vertebrate member of the animal kingdom other than an uncaptured wild creature.

**ANIMAL CONTROL OFFICER.** Any person authorized by law or employed or appointed for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensing, control, seizure, or impoundment of animals.

**OWNER.** Any person who owns, possesses, keeps, harbors, or has charge, custody, or control of an animal or permits an animal to habitually remain or be lodged or fed within his or her house, store, building, enclosure, yard, lot, grounds, or premises. **OWNER** does not include any veterinarian or kennel operator temporarily maintaining on his or her premises an animal owned by another person for not more than 30 days.

**RUN AT LARGE.** Not being under the actual control of the owner by means of:

(a) A leash, cord, chain, or other suitable means of physical restraint which is securely fastened or tethered in a manner sufficient to keep the animal on the premises where tethered;

(b) A leash, cord, chain, or other suitable means of physical restraint of 6 feet or less in length physically held by the owner;

(c) Being confined within a cage, receptacle, enclosed vehicle, fenced enclosure, or shelter;  
or

(d) Being within the real property limits of the owner and in the owner's presence and under direct and effective voice or other control.

**§ 93.02 RUNNING AT LARGE; TETHERING.**

(A) It shall be unlawful for the owner of any cow, hog, horse, mule, sheep, goat, dog, chicken, turkey, goose, or other animal except a cat to permit the animal to run at large at any time on any of the public ways and property or the property of another in the city or to be tethered or staked out in such a manner so as to allow the animal to reach or pass into any public way or property or any property of another.

(B) The owner of a cat may permit the cat to run at large within the corporate limits subject to any restrictions or prohibitions otherwise imposed by the City Council.

(C) Any animal found running at large or tethered or staked out in violation of this section is a public nuisance and may be impounded or destroyed as provided in this chapter.

(D) Nothing in this section shall be construed to permit anyone to own an animal in the corporate limits of the city that is prohibited by the City Council.

Penalty, see § 10.99

*Statutory reference:*

*Authority to regulate, see Neb. RS 17-526 and 17-547*

*Fine for permitting collarless dog to run at large, see Neb. RS 54-607*

*Cross reference:*

*Restrictions on cats; prohibited animals, see Title XVII*

### § 93.03 WILD ANIMALS.

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

Penalty, see § 10.99

### § 93.04 KILLING, POISONING, AND INJURING.

It shall be unlawful for any person to kill, administer or cause to be administered poison of any sort to, or in any manner injure, maim, or destroy or attempt to injure, maim, or destroy any animal or to place any poison or poisoned food where it is accessible to an animal, except that:

(A) This section shall not apply to any law enforcement officer or animal control officer acting within his or her power and duty;

(B) This section shall not apply if the animal is vicious, dangerous, or showing characteristics of rabies and cannot be captured without danger to the persons attempting to effect a capture of the animal; and

(C) Any owner of a dog that he or she wishes to be destroyed may place the dog in an animal pound or shelter or with a licensed veterinarian to be humanely destroyed and disposed of according to the provisions in this chapter or other provisions of law.

Penalty, see § 10.99

**§ 93.05 ENCLOSURES.**

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

Penalty, see § 10.99

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

(A) *Definitions.* For the purpose of this chapter, 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, burn, scald, or 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 Nebraska State Patrol, any county or deputy sheriff, any member of the police force of the city or any other city or village, or any other public official authorized by the city or any other city or village to enforce state or local animal control laws, rules, regulations, or ordinances.

**LIVESTOCK ANIMAL.** Any bovine, equine, swine, sheep, goats, domesticated cervine 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.

(Neb. RS 28-1008)

(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 officer 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 officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

(Neb. RS 28-1012)

(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 of preventing such animal from performing its legitimate official duties.

(Neb. RS 28-1009) Penalty, see § 10.99

***Statutory reference:***

*Authority to prohibit cruelty to animals, see Neb. RS 17-138*

*Serious illness or injury to animal; death of animal; felony, see Neb. RS 28-1008 and 28-1009*

*Exemptions, see Neb. RS 28-1013*

**§ 93.07 EQUINE; BOVINE; PROHIBITED ACTS.**

(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.

(Neb. RS 54-911)

(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.

(Neb. RS 54-912) Penalty, see § 10.99

***Statutory reference:***

*Livestock Animal Welfare Act, see Neb. RS 54-907 through 54-912*

**§ 93.08 IMPOUNDMENT.**

(A) This section shall apply to the impoundment of animals to which § 93.24 does not apply.

(B) Any animal found in violation of the provisions of this chapter shall be impounded. All impounded domestic animals shall be given proper care, treatment, and maintenance.

(C) Notice of impoundment of all animals, including any significant marks of identification, shall be posted at the pound and at the office of the City Clerk within 24 hours after impoundment as public notification of impoundment. Notice of the impoundment of any licensed dog shall also be mailed to the owner listed on the license application by regular U.S. mail to the address listed on the application.

(D) Each impounded domestic animal shall be kept and maintained at the pound for a period of not less than 5 days after public notice has been given unless reclaimed earlier by the owner. The owner may reclaim the animal during the period of impoundment by payment of any general impoundment and daily board fees set by resolution of the City Council and on file in the office of the City Clerk, except that in addition, an unusual or other nondomesticated or wild animal shall only be released upon condition that the owner shall immediately remove the animal from the city or destroy it. A diseased animal may be released upon a determination that the health and safety of the public is no longer threatened. The owner of any released animal shall be required to comply with any licensing and rabies vaccination requirements applicable to such animal within 72 hours after release.

(E) If the animal is unclaimed at the end of required waiting period after public notice has been given, the animal control officer may destroy and dispose of the animal in a humane manner in accordance with applicable rules and regulations, except that if in the judgment of the officer a suitable home can be found for the animal, the animal shall be turned over to the person who can provide such home and the new owner shall be required to pay all fees and meet all applicable licensing and vaccinating requirements. The city shall acquire legal title to any unlicensed dog or any other animal impounded in the animal shelter for a period longer than the required waiting period after giving notice. The owner of the animal shall remain liable for payment of the fees established by the City Council.

***Statutory reference:***

*Authority to establish pens and pounds, see Neb. RS 17-548 and 71-4408*

*Authority to impound and sell animals, see Neb. RS 17-526 and 17-547*

**§ 93.09 OFFICER'S COMPENSATION.**

If the City Council so provides, any official appointed or designated to destroy and dispose of animals under the provisions of this chapter shall be paid, in addition to his or her regular salary or other compensation, the sum set by the Council for each animal so destroyed and disposed of.

***Statutory reference:***

*Authority to compensate keeper of pound, see Neb. RS 17-548*

**§ 93.10 INTERFERENCE WITH POLICE.**

It shall be unlawful for any person to hinder, delay, or interfere with any police officer or animal control officer who is performing any duty enjoined upon that person by the provisions of this chapter or to break open, or in any manner directly or indirectly aid, counsel, or advise the breaking open, of the animal shelter, any ambulance wagon, or any other vehicle used for the collecting or conveying of animals to the shelter.

***Cross reference:***

*Obstructing a peace officer prohibited, see § 132.05*

***RABIES*****§ 93.20 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 or cat.

**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 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 rabies vaccine as approved by the rules and regulations adopted and promulgated by the department. The vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the state.

(Neb. RS 71-4401)

#### **§ 93.21 VACCINATION REQUIRED; COST; EXEMPTIONS.**

(A) 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.

(B) (1) Except as provided in division (B)(3) of this section, 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.

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

(3) 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.

(Neb. RS 71-4402)

(C) The cost of rabies vaccination shall be borne by the owner of the domestic or hybrid animal.  
(Neb. RS 71-4404)

(D) (1) 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.

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

(Neb. RS 71-4405) Penalty, see § 10.99

### **§ 93.22 SEIZURE BY AUTHORITY; CONFINEMENT BY OWNER; TESTING.**

(A) (1) Any animal which is owned by a person and has bitten any person or caused an abrasion of the skin of any person shall be seized by the rabies control authority for a period of not less than 10 days if:

(a) The animal is suspected of having rabies, regardless of the species and whether or not the animal has been vaccinated;

(b) The animal is not vaccinated and is a dog, cat, or another animal of a species determined by the department to be a rabid species; or

(c) The animal is of a species which has been determined by the department to be a rabid species not amenable to rabies protection by immunization, whether or not the animal has been vaccinated.

(2) If, after observation and examination by a veterinarian, at the end of the 10-day period the animal shows no clinical signs of rabies, the animal may be released to its owner.

(B) (1) Except as provided in division (B)(2) of this section, whenever any person has been bitten or has an abrasion of the skin caused by an animal owned by another person, which animal has been vaccinated in accordance with § 93.21, or if such an injury to a person is caused by an owned dog, cat, or other animal determined by the department to be a rabid species amenable to rabies protection by immunization which has been vaccinated, the animal shall be confined by the owner or other responsible person as required by the rabies control authority for a period of at least 10 days and shall be observed and examined by a veterinarian at the end of the 10-day period. If no clinical signs of rabies are found by the veterinarian, the animal may be released from confinement.

(2) A vaccinated animal owned by a law enforcement or governmental military agency which bites or causes an abrasion of the skin of any person during training or the performance of the animal's duties may be confined as provided in division (B)(1) of this section. The agency shall maintain ownership of and shall control and supervise the actions of the animal for a period of 15 days following the injury. If during such period the death of the animal occurs for any reason, a veterinarian shall within 24 hours of the death examine the tissues of the animal for clinical signs of rabies.

(C) Any dog, cat, or other animal of a rabid species which has bitten a person or caused an abrasion of the skin of a person and which is unowned or the ownership of which cannot be determined within 72 hours of the time of the bite or abrasion shall be immediately subject to any tests which the

department believes are necessary to determine whether the animal is afflicted with rabies. The 72-hour period shall include holidays and weekends and shall not be extended for any reason. The tests required by this subsection may include tests which require the animal to be destroyed.

(Neb. RS 71-4406) Penalty, see § 10.99

### **§ 93.23 DOMESTIC ANIMAL BITTEN BY RABID ANIMAL.**

In the case of domestic or hybrid animals known to have been bitten by a rabid animal, the following rules shall apply:

(A) If the bitten or exposed domestic or hybrid animal has not been vaccinated in accordance with § 93.21, the bitten or exposed domestic or hybrid animal shall be immediately destroyed unless the owner is willing to place the domestic or hybrid animal in strict isolation in a kennel under veterinary supervision for a period of not less than 6 months; and

(B) If the bitten or exposed domestic or hybrid animal has been vaccinated in accordance with § 93.21, the domestic or hybrid animal shall be subject to the following procedure:

(1) The domestic or hybrid animal shall be immediately revaccinated and confined for a period of not less than 30 days following vaccination;

(2) If the domestic or hybrid animal is not immediately revaccinated, the domestic or hybrid animal shall be confined in strict isolation in a kennel for a period of not less than 6 months under the supervision of a veterinarian; or

(3) The domestic or hybrid animal shall be destroyed if the owner does not comply with either division (B)(1) or (2) of this section.

(Neb. RS 71-4407) Penalty, see § 10.99

### **§ 93.24 ANIMAL POUND; IMPOUNDMENT; RELEASE; FEES.**

(A) (1) The rabies control authority may authorize an animal pound or pounds or may enter into a cooperative agreement with a licensed veterinarian for the establishment and operation of a pound.

(2) Any dog or hybrid of the family Canidae found outside the owner's premises whose owner does not possess a valid certificate of rabies vaccination and valid rabies vaccination tag for the dog or hybrid of the family Canidae shall be impounded. The rabies control authority may require the impoundment of domestic or hybrid animals other than dogs or hybrid of the family Canidae. All impounded domestic or hybrid animals shall be given proper care, treatment, and maintenance. Each impounded domestic or hybrid animal shall be kept and maintained at the pound for a period of not less than 72 hours unless reclaimed earlier by the owner.

(3) Notice of impoundment of all animals, including any significant marks of identification, shall be posted at the pound as public notification of impoundment. Any unvaccinated domestic or hybrid animal may be reclaimed by its owner during the period of impoundment by payment of prescribed pound fees and by complying with the rabies vaccination requirement of this subchapter within 72 hours of release. Any vaccinated domestic or hybrid animal impounded because its owner has not presented a valid certificate of rabies vaccination and a valid rabies vaccination tag for the domestic or hybrid animal may be reclaimed by its owner by furnishing proof of rabies vaccination and payment of all impoundment fees prior to release.

(4) At the expiration of impoundment a domestic or hybrid animal may be claimed by payment of established pound fees and by compliance with the rabies vaccination requirement of this subchapter within 72 hours of release. If the domestic or hybrid animal is unclaimed at the end of 5 days, the authorities may dispose of the domestic or hybrid animal in accordance with applicable laws or rules and regulations.

(Neb. RS 71-4408)

(B) Impoundment fees shall be paid by the owner. Fees for impoundment at public facilities shall be established by the rabies control authority.

(Neb. RS 71-4411)

### **§ 93.25 PROCLAMATION OF DANGER.**

Whenever in its opinion the danger to the public safety from a species of rabid animals is great or imminent, the City Council shall issue a proclamation ordering all owners of any such species to muzzle the animal or to confine it for a period of not less than 30 days or more than 90 days from the date of the proclamation or until the danger is passed. The animal may be harbored by any good and sufficient means in a house, garage, or yard on the premises on which the owner may reside. Upon issuance of a proclamation, all owners of any such species shall muzzle or confine the animal as provided in this section.

Penalty, see § 10.99

### **§ 93.26 ENFORCEMENT.**

(A) When the owner of any domestic or hybrid animal or other animal fails or refuses to comply with § 93.22 or 93.23, the rabies control authority shall obtain an order for seizure of the animal pursuant to Neb. RS Chapter 29, article 8.

(Neb. RS 71-4410)

(B) In the city, all ordinances, codes, or rules and regulations concerning the control of rabies or the vaccination of domestic or hybrid animals against rabies shall be enforced by the city health and law enforcement officials or those other officers with regulatory authority as specified by the City Council.

(Neb. RS 71-4412)

*DOGS***§ 93.40 LICENSE AND TAX REQUIRED; EXEMPTION; TAGS.**

(A) Any owner of a dog over the age of 6 months within the city shall, within 30 days after acquisition of the dog, acquire a license for the dog annually by or before the May 1 of each year. Licenses shall be issued by the City Clerk upon payment of a license tax in the amount established by the City Council, 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 unspayed female dog as a male or spayed female dog if the Council has established different license taxes for such dogs.

(B) 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 10 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.

(C) 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.

(D) 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.  
(Neb. RS 54-603)

(E) (1) 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 are different in appearance each year.

(2) 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.

(3) 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 City Council for each duplicate or new tag so issued.

(F) 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.

Penalty, see § 10.99

*Statutory reference:*

*Authority to impose license tax, require rabies certificate, and destroy unlicensed dogs, see Neb. RS 17-526, 54-603, and 71-4412*

**§ 93.41 COLLAR OR HARNESS REQUIRED.**

(A) It shall be the duty of every owner of a dog to securely place upon the neck of the dog a good and sufficient collar with a metallic plate thereon. The plate shall be plainly inscribed with the name of the owner.

(Neb. RS 54-605)

(B) The owner of a dog may use a harness instead of a collar as long as the harness meets all other requirements of division (A) of this section.

Penalty, see § 10.99

**§ 93.42 REMOVAL OF COLLAR, HARNESS, OR TAGS.**

It shall be unlawful for any person to remove, or cause to be removed, the collar, harness, metallic license tag, or rabies tag from any dog without the consent of the owner of the dog.

Penalty, see § 10.99

**§ 93.43 LIABILITY OF OWNER.**

It shall be unlawful for the owner to allow a dog to injure or destroy any real or personal property of any description belonging to another person. The owner of the dog, in addition to the usual judgment upon conviction, may be made to be liable to the person injured in an amount equal to the value of the damage sustained.

Penalty, see § 10.99

*Statutory reference:*

*Authority to guard against injuries or annoyances, see Neb. RS 17-526*

*Statutory liability for damages, see Neb. RS 54-601, 56-602, and 54-606*

**§ 93.44 BARKING AND CHASING; COMPLAINTS.**

(A) It shall be unlawful for the owner to allow a dog to annoy or disturb any neighborhood or person by loud, continued, or frequent barking, howling, or yelping or to habitually bark at or chase pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the city.

(B) Upon the written complaint of 2 or more affected persons from different households, filed within any 30-day period with the City Clerk or animal control officer, that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section, the city police or animal control officer shall investigate the complaint and, if in his or her opinion the situation warrants, notify the owner to silence and restrain the dog.

(C) The provisions of this section shall not be construed to apply to any city animal shelter.

Penalty, see § 10.99

*Statutory reference:*

*Authority to guard against annoyances, see Neb. RS 17-526*

### § 93.45 DANGEROUS DOGS.

(A) *Definitions.* For the purpose of this section, 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 section or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and includes 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.***

(a) Any dog that, according to the records of the animal control authority:

(i) Has killed a human being;

(ii) Has inflicted injury on a human being that requires medical treatment;

(iii) Has killed a domestic animal without provocation; or

(iii) 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 the 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.

(b) A 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.

(c) 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, 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.

(d) 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.** A cat, a dog, or livestock. Livestock includes buffalo, deer, antelope, fowl, and any other animal in any zoo, wildlife park, refuge, wildlife area, or nature center intended to be on exhibit.

**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.**

(a) Any dog that when unprovoked:

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

(ii) Injures a domestic animal; or

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

(b) Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.  
(Neb. RS 54-617)

(B) (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. The cost of both procedures is the responsibility of the owner of the dangerous dog. Written proof of both procedures and the microchip identification number shall be provided to the animal control authority after the procedures are completed.

(2) No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash.

(3) Except as provided in division (B)(4) of this section 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 this state.

(4) An owner of a dangerous dog may transport such dog or permit such dog to be transported to another county, city, or village in this 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 this 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. 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 this state and of such county, city, or village with regard to dangerous dogs. Nothing in this division shall permit the rescindment of the declaration of dangerous dog.

(Neb. RS 54-618)

(C) (1) 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.

(2) While unattended on the owner's property, a dangerous dog shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at least one foot. The pen or structure shall also protect the dog from the elements. The pen or structure shall be at least ten feet from any property line of the owner. 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 twelve inches and shall contain the words warning and dangerous animal in high-contrast lettering at least three inches high on a black background.

(Neb. RS 54-619)

(D) *Failure to comply.*

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

(Neb. RS 54-620)

(2) In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner.  
(Neb. RS 54-621)

(E) (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 (E)(1) of this section 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.  
(Neb. RS 54-622.01)

(F) *Effect of prior conviction.* 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.  
(Neb. RS 54-623) Penalty, see § 10.99

***Statutory reference:***

*Owner felony liability; serious bodily injury second offense, see Neb. RS 54-622.01*

*Prior conviction; ownership of dangerous dog prohibited for ten years after, see Neb. RS 54-623*



**TITLE XI: BUSINESS REGULATIONS**

Chapter

**110. BUSINESS LICENSING**

**111. ALCOHOLIC BEVERAGES**

**112. TOBACCO AND CIGARETTES**

**113. SALES AND ADVERTISING**

*Cross-reference:*

*Local legislation regarding these topics, see Title XVII*



## CHAPTER 110: BUSINESS LICENSING

Section

### *Occupation Taxes*

- 110.01 Levies authorized
- 110.02 Collection dates
- 110.03 Certificates
- 110.04 Failure to pay

### *OCCUPATION TAXES*

#### **§ 110.01 LEVIES AUTHORIZED.**

(A) The city shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the city and regulate the same by ordinance. Any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under Neb. RS 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under Neb. RS 77-2704.24. The occupation tax shall be imposed in the manner provided in Neb. RS 18-1208, except that Neb. RS 18-1208 does not apply to an occupation tax subject to Neb. RS 86-704. All such taxes shall be uniform in respect to the classes upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the city.

(Neb. RS 17-525)

(B) The City Council shall have authority, by ordinance, to impose an occupation tax of not more than \$5 per annum on each fire insurance corporation, company, or association, doing business in the city, for the use, support, and benefit of volunteer fire departments, regularly organized under the laws of the state regulating the same. The City Clerk shall collect with diligence the occupation tax so imposed. Upon the receipt of the tax the Clerk shall pay over the proceeds thereof to the City Treasurer who shall credit the same to a fund to be known as special occupation tax fund for benefit of the volunteer fire department. Upon proper claim filed by the Chief of the Fire Department and allowed by

the City Council, the Treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the Fire Department, as hereinbefore provided.

(Neb. RS 35-106)

(C) Notwithstanding any ordinance or charter power to the contrary, the city shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the city in any sum which exceeds 2 times the amount of the license fee required to be paid under the Act to obtain such license.

(Neb. RS 53-132)

***Statutory reference:***

*Occupation taxes generating more than \$300,000; imposition or increase; election required, see Neb. RS 18-1208*

***Cross reference:***

*Levy amounts, see Title XVII*

#### **§ 110.02 COLLECTION DATES.**

Unless provided otherwise or levied daily, any occupation taxes imposed by the City Council shall be due and payable on May 1 of each year, except that any occupation taxes collected from Class C liquor licensees shall be due and payable on November 1 of each year. Upon payment of an occupation tax by any person to the City Clerk, the Clerk shall give a receipt, properly dated, specifying the person paying the tax and the amount paid. Any revenue collected shall be deposited into the general fund by the City Treasurer except as otherwise specifically provided. The Treasurer shall keep an accurate account of all revenue turned over to him or her. All forms and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction.

#### **§ 110.03 CERTIFICATES.**

The receipt issued after the payment of any occupation tax shall be the occupation tax certificate. The certificate shall specify the amount of the tax and the name of the person and business that paid the tax. The occupation tax certificate shall then be displayed in a prominent place or carried in such a way as to be easily accessible while business is being conducted.

#### **§ 110.04 FAILURE TO PAY.**

If any person, company, or corporation fails or neglects to pay the occupation taxes as provided in this chapter on the day they become due and payable, the city shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid.

## CHAPTER 111: ALCOHOLIC BEVERAGES

### Section

#### *General Provisions*

- 111.01 Definitions
- 111.02 Sale or gift to minor or mentally incompetent person prohibited
- 111.03 Consumption in public places or places open to the public; restrictions
- 111.04 Removal of intoxicated persons from public or quasi-public property

#### *Licenses Required*

- 111.20 Manufacture, sale, delivery, and possession; general prohibitions; exceptions
- 111.21 Acquisition and possession; restrictions
- 111.22 Licensee requirements
- 111.23 Licenses; city powers and duties
- 111.24 Licensed premises; inspections
- 111.25 License renewal; city powers and duties
- 111.26 Catering licenses
- 111.27 Display of license
- 111.28 Owner of premises or agent; liability
- 111.29 Licensee; liability for acts of officer, agent, or employee
- 111.30 Citizen complaints

#### *Retail Establishments*

- 111.45 Location
- 111.46 Access to dwellings
- 111.47 Sanitary conditions
- 111.48 Hours of sale
- 111.49 Credit sales prohibited
- 111.50 Original package required
- 111.51 Minor's presence restricted
- 111.52 Keg sales; requirements; prohibited acts

**GENERAL PROVISIONS****§ 111.01 DEFINITIONS.**

For purposes of this chapter, the definitions found in Neb. RS 53-103.01 through 53-103.42 shall be used.

**§ 111.02 SALE OR GIFT TO MINOR OR MENTALLY INCOMPETENT PERSON PROHIBITED.**

No person shall sell, furnish, give away, dispose of, exchange, or deliver, or permit the sale, gift, or procuring of any alcoholic liquors, to or for any minor or to any person who is mentally incompetent. (Neb. RS 53-180) Penalty, see § 10.99

*Statutory reference:*

*Authority, see Neb. RS 17-135*

**§ 111.03 CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS.**

(A) Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2) or as provided in Neb. RS 60-6,211.08, it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (Neb. RS 53-186)

(B) It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, café, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, café, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act. This division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under Neb. RS 60-6,211.08. (Neb. RS 53-186.01)

**§ 111.04 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.**

(A) Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated

person from public or quasi-public property shall make a reasonable effort to take the intoxicated person to his or her home or to place the person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts such facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If these efforts are unsuccessful or are not feasible, the officer may then place the intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours.

(B) The placement of the person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to the person designated by the person taken into civil protective custody.

(C) The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for these actions.

(D) The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

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

***PUBLIC PROPERTY.*** Any public right-of-way, street, highway, alley, park, or other state, county, or city-owned property.

***QUASI-PUBLIC PROPERTY.*** Private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.  
(Neb. RS 53-1,121) Penalty, see § 10.99

### ***LICENSES REQUIRED***

#### **§ 111.20 MANUFACTURE, SALE, DELIVERY, AND POSSESSION; GENERAL PROHIBITIONS; EXCEPTIONS.**

(A) No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish, or possess any alcoholic liquor for beverage purposes except as specifically provided in this chapter and the Nebraska Liquor Control Act.

(B) Nothing in this chapter shall prevent:

(1) The possession of alcoholic liquor legally obtained as provided in this chapter or the Act for the personal use of the possessor and his or her family or guests;

(2) The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

(3) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of that hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;

(4) The possession and dispensation of alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual, or ceremony;

(5) Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

(6) Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

(7) Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or

(8) Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.

(Neb. RS 53-168.06)

Penalty, see § 10.99

#### **§ 111.21 ACQUISITION AND POSSESSION; RESTRICTIONS.**

(A) It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under this chapter and the Nebraska Liquor Control Act unless within specific exemptions or exceptions provided in this chapter or the Act.

(Neb. RS 53-175)

(B) It shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into this state for the personal use of the possessor, his or her family, or guests a quantity of alcoholic liquor in excess of 9 liters in any 1 calendar month.

(Neb. RS 53-194.03)

Penalty, see § 10.99

**§ 111.22 LICENSEE REQUIREMENTS.**

(A) No license shall be issued to:

(1) A person who is not a resident of this state, except in case of railroad, airline, or boat licenses;

(2) A person who is not of good character and reputation in the community in which he or she resides;

(3) A person who is not a citizen of the United States;

(4) A person who has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States;

(5) A person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant Neb. RS Chapter 28, art. 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this division on May 18, 1983, shall not prevent any person holding a license on that date from retaining or renewing that license if the conviction or plea occurred prior to May 18, 1983;

(6) A person whose license issued under the Nebraska Liquor Control Act has been revoked for cause;

(7) A person who at the time of application for renewal of any license issued under the Act would not be eligible for that license upon initial application;

(8) A partnership, unless 1 of the partners is a resident of this state and unless all the members of that partnership are otherwise qualified to obtain a license;

(9) A limited liability company, unless 1 of the members is a resident of this state and unless all the members of that company are otherwise qualified to obtain a license;

(10) A corporation, if any officer or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of that corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in divisions (A)(1) and (A)(3) of this section, or if a manager of a corporate licensee would be ineligible to receive a license under this section for any reason. This division shall not apply to railroad licenses;

(11) A person whose place of business is conducted by a manager or agent, unless that manager or agent possesses the same qualifications required of the licensee;

(12) A person who does not own the premises for which a license is sought or does not have a lease or combination of leases on the premises for the full period for which the license is to be issued;

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(13) Except as provided in this division, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such an applicant shall become eligible for a liquor license only if the Nebraska Liquor Control Commission finds from the evidence that the public interest will not be infringed upon if the license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license, the applicant is also ineligible to receive a liquor license. This prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission:

(a) The licensed business will be the sole property of the applicant; and

(b) The licensed premises will be properly operated.

(14) A person seeking a license for premises which do not meet standards for fire safety as established by the State Fire Marshal;

(15) A law enforcement officer, except that this division shall not prohibit a law enforcement officer from holding membership in any nonprofit organization holding a liquor license or from participating in any manner in the management or administration of a nonprofit organization; or

(16) A person less than 21 years of age.

(B) When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or person who is mentally incompetent.

(Neb. RS 53-125)

**§ 111.23 LICENSES; CITY POWERS AND DUTIES.**

(A) The City Council is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, craft brewery, and microdistillery licensees carried on within the corporate limits of the city.

(Neb. RS 53-134.03)

(B) During the period of 45 days after the date of receipt by mail or electronic delivery from the Nebraska Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail, a craft brewery license, or a microdistillery license, the City Council may make and submit to the Commission recommendations relative to the granting or refusal to grant the license to the applicant.

(Neb. RS 53-131)

(C) The City Council, with respect to licenses within the corporate limits of the city, has the following powers, functions, and duties with respect to retail, craft brewery, and microdistillery licenses:

(1) To cancel or revoke for cause retail, craft brewery, or microdistillery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated, and at that time examine the premises of the licensee in connection with such determination. Any law enforcement officer who determines that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the local governing body has been or is being violated shall report such violation in writing to the Executive Director of the Commission:

(a) Within 30 days after determining that such violation has occurred;

(b) Within 30 days after the conclusion of an ongoing police investigation; or

(c) Within 30 days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later;

(3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon these complaints in the manner provided in the Act;

(4) To receive retail, craft brewery, and microdistillery license fees as provided in Neb. RS 53-124 and 53-124.01 and pay the same, after the license has been delivered to the applicant, to the City Treasurer;

(5) To examine or cause to be examined any applicant or any retail, craft brewery, or microdistillery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in § 111.30, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. The order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133; and

(7) Upon receipt from the Commission of the notice and copy of application as provided in Neb. RS 53-131, to fix a time and place for a hearing at which the City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of the hearing shall be published in a legal newspaper in or of general circulation in the city, 1 time not less than 7 and not more than 14 days before the time of the hearing. The notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of the license may do so at the time of the hearing. The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after the hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the license. The City Clerk shall mail to the Commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs. (Neb. RS 53-134)

(D) (1) When the Nebraska Liquor Control Commission mails or delivers to the City Clerk a retail, craft brewery, or microdistillery license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon receipt from the licensee of proof of payment of:

- (a) The license fee if by the terms of Neb. RS 53-124 the fee is payable to the City Treasurer;
- (b) Any fee for publication of notice of hearing before the City Council upon the application for the license;
- (c) The fee for publication of notice of renewal, if applicable, as provided in Neb. RS 53-135.01; and
- (d) Occupation taxes, if any, imposed by the city.

(2) Notwithstanding any ordinance or charter power to the contrary, the city shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the city in any sum which exceeds 2 times the amount of the license fee required to be paid under the Act to obtain that license. (Neb. RS 53-132)

#### **§ 111.24 LICENSED PREMISES; INSPECTIONS.**

The City Council shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this chapter, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska Liquor Control Commission, or is failing to

observe in good faith the purposes of this chapter or the Act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense.  
(Neb. RS 53-116.01)

#### **§ 111.25 LICENSE RENEWAL; CITY POWERS AND DUTIES.**

(A) A retail license issued by the Nebraska Liquor Control Commission and outstanding may be automatically renewed by the Commission in the absence of a written request by the City Council to require the licensee to submit an application for renewal. Any licensed retail premises located in an area which is annexed to the city shall file a formal application for a license, and while the application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If that license expires within 60 days following the annexation date of the area, the license may be renewed by order of the Commission for not more than 1 year.  
(Neb. RS 53-135)

(B) The City Clerk shall cause to be published in a legal newspaper in or of general circulation in the city, 1 time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the city, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the City Clerk by 3 or more residents of the city on or before February 10, or August 10 for Class C licenses, the City Council shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application as provided in Neb. RS 53-135.  
(Neb. RS 53-135.01)

#### **§ 111.26 CATERING LICENSES.**

(A) The holder of a license to sell alcoholic liquor at retail issued under Neb. RS 53-124, a craft brewery license, a microdistillery license, or a farm winery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission.

(B) Upon receipt from the Commission of the notice and a copy of the application as provided in Neb. RS 53-124.12, the City Council shall process the application in the same manner as provided in § 111.23.

(C) The City Council, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which that catering license is issued. Any person whose catering license is canceled may appeal to the District Court.

(D) The City Council may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the City Council. The tax may not exceed double the license fee for a catering license.

(Neb. RS 53-124.12)

#### **§ 111.27 DISPLAY OF LICENSE.**

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain view in a conspicuous place on the licensed premises.

(Neb. RS 53-148) Penalty, see § 10.99

#### **§ 111.28 OWNER OF PREMISES OR AGENT; LIABILITY.**

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of the premises, or the agent of that owner or person, knowingly permits the licensee to use the licensed premises in violation of the terms of the Nebraska Liquor Control Act or any city ordinance, that owner, agent, or other person shall be deemed guilty of a violation of the Act or ordinance to the same extent as the licensee and be subject to the same punishment.

(Neb. RS 53-1,101) Penalty, see § 10.99

#### **§ 111.29 LICENSEE; LIABILITY FOR ACTS OF OFFICER, AGENT, OR EMPLOYEE.**

Every act or omission of whatsoever nature constituting a violation of any of the provisions of the Nebraska Liquor Control Act or any city ordinance by any officer, director, manager, or other agent or employee of any licensee, if the act is committed or omission is made with the authorization, knowledge, or approval of the licensee, shall be deemed and held to be the act of the employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by the licensee personally.

(Neb. RS 53-1,102) Penalty, see § 10.99

#### **§ 111.30 CITIZEN COMPLAINTS.**

Any 5 residents of the city shall have the right to file a complaint with the City Council stating that any retail licensee subject to the jurisdiction of the City Council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the Act. The complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for that belief, it shall set the matter for hearing within 10 days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of the hearing and

of the particular charge in the complaint. The complaint shall in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. RS 53-1,115.  
(Neb. RS 53-134.04)

### *RETAIL ESTABLISHMENTS*

#### § 111.45 LOCATION.

(A) Except as otherwise provided in division (B) of this section, no license shall be issued for the sale at retail of any alcoholic liquor within 150 feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. This prohibition does not apply to any location within such distance of 150 feet:

(1) For which a license to sell alcoholic liquor at retail has been granted by the Nebraska Liquor Control Commission for two years continuously prior to making of application for license;

(2) To hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935; or

(3) To a college or university in the state which is subject to Neb. RS 53-177.01.

(B) If a proposed location for the sale at retail of any alcoholic liquor is within 150 feet of any church, a license may be issued if the commission gives notice to the affected church and holds a hearing as prescribed in Neb. RS 53-133 if the affected church submits a written request for a hearing.  
(Neb. RS 53-177)

(C) No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college or university within the city, except that this section:

(1) Does not prohibit a nonpublic college or university from contracting with an individual or corporation holding a license to sell alcoholic liquor at retail for the purpose of selling alcoholic liquor at retail on the campus of such college or university at events sanctioned by such college or university but does prohibit the sale of alcoholic liquor at retail by such licensee on the campus of such nonpublic college or university at student activities or events; and

(2) Does not prohibit sales of alcoholic liquor by a community college culinary education program pursuant to Neb. RS 53-124.15.

(Neb. RS 53-177.01) Penalty, see § 10.99

***Statutory reference:***

*State commission may waive 300-foot requirement, see Neb. RS 53-177.01*

**§ 111.46 ACCESS TO DWELLINGS.**

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which have any access which leads from the premises to any other portion of the same building or structure used for dwelling or lodging purposes, and which is permitted to be used or kept accessible for use by the public. This provision shall not prevent any connection between the premises and such other portion of the building or structure which is used only by the licensee, his or her family, or personal guests.

(Neb. RS 53-178) Penalty, see § 10.99

**§ 111.47 SANITARY CONDITIONS.**

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons. The licensed premises shall be subject to any health inspections the City Council or the city police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license.

Penalty, see § 10.99

***Statutory reference:***

*Authority to regulate licensed premises, see Neb. RS 53-134.03*

*State sanitary rules and regulations authorized, see Neb. RS 53-118*

**§ 111.48 HOURS OF SALE.**

(A) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1 a.m. and 6 a.m. except that the City Council with respect to area inside the corporate limits of the city may by ordinance or resolution:

(1) Require closing prior to 1 a.m. on any day;

(2) If adopted by a vote of at least two-thirds of the members of the City Council, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, later than 1 a.m. and prior to 2 a.m. on any day;

(3) If adopted by a vote of at least two-thirds of the members of City Council, permit retail sale of alcoholic liquor for consumption off the premises later than 1 a.m. and prior to 2 a.m. on any day; or

(4) If adopted by a vote of at least two-thirds of the members of City Council, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, and permit retail sale of alcoholic liquor for consumption off the premises later than 1 a.m. and prior to 2 a.m. on any day.

(B) Except as provided for and allowed by ordinance of the City Council, no alcoholic liquor, including beer, shall be sold at retail or dispensed inside the corporate limits of the city between the hours of 6 a.m. Sunday and 1 a.m. Monday. This division (B) shall not apply after 12 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C license or a Class I license.

(C) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of 15 minutes after the closing hour applicable to the licensed premises and 6 a.m. on any day.

(D) Nothing in this section shall prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section. (Neb. RS 53-179)

***Cross reference:***

*Local legislation regarding hours of sale, see Title XVII*

**§ 111.49 CREDIT SALES PROHIBITED.**

(A) No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered, and if any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law.

(B) Nothing in this section shall prevent the following:

(1) Any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the bylaws of such club;

(2) Any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing at such hotel or eating at such restaurant and charged to the accounts of such guests; or

(3) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers.

(Neb. RS 53-183) Penalty, see § 10.99

#### **§ 111.50 ORIGINAL PACKAGE REQUIRED.**

No person, except a manufacturer or wholesaler, shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor. It shall be unlawful for any person to have in his or her possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor except in original packages. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale.

(Neb. RS 53-184) Penalty, see § 10.99

#### **§ 111.51 MINOR'S PRESENCE RESTRICTED.**

It shall be unlawful for any person who owns, manages, or leases an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years of age to frequent or otherwise remain in the establishment unless the minor is accompanied by his or her parent or legal guardian, and unless the minor remains seated with and under the immediate control of the parent or legal guardian.

Penalty, see § 10.99

***Statutory reference:***

*Authority to regulate, see Neb. RS 53-134.03*

#### **§ 111.52 KEG SALES; REQUIREMENTS; PROHIBITED ACTS.**

(A) When any person licensed to sell alcoholic liquor at retail sells alcohol for consumption off the premises in a container with a liquid capacity of five or more gallons or 18.92 or more liters, the seller shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if the military identification contains a picture of the purchaser, together with the purchaser's signature. This record shall be on a form prescribed by the Nebraska Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

(Neb. RS 53-167.02)

(B) Any person who unlawfully tampers with, alters, or removes the keg identification number from a container described in division (A) or is in possession of a container described in division (A) with an altered or removed keg identification number after the container has been taken from the licensed

premises pursuant to a retail sale and before its return to the licensed premises or other place where returned kegs are accepted shall be guilty of an offense.

(Neb. RS 53-167.03) Penalty, see § 10.99



## CHAPTER 112: TOBACCO AND CIGARETTES

### Section

- 112.01 License to sell; issuance
- 112.02 License application
- 112.03 License term; fees
- 112.04 Rights of licensee
- 112.05 Disposition of fees
- 112.06 Transfer of license
- 112.07 Reissuance of revoked and forfeited license

### § 112.01 LICENSE TO SELL; ISSUANCE.

Licenses for the sale of cigars, tobacco, cigarettes, cigarette material, vapor products, or alternative nicotine products to persons over the age of 18 years shall be issued to individuals, partnerships, limited liability companies, and corporations by the City Clerk upon application duly made as provided in § 112.02.

(Neb. RS 28-1421)

*Statutory reference:*

*Licenses required, see Neb. RS 28-1420*

*Prohibited sales, see Neb. RS 28-1421*

### § 112.02 LICENSE APPLICATION.

Every person, partnership, limited liability company, or corporation desiring a license under Neb. RS 28-1420 to 28-1429 shall file with the City Clerk a written application stating the name of the person, partnership, limited liability company, or corporation for whom the license is desired and the exact location of the place of business and shall deposit with the application the amount of the license fee provided in § 112.03. If the applicant is an individual, the application shall include the applicant's social security number.

(Neb. RS 28-1422)

**§ 112.03 LICENSE TERM; FEES.**

(A) The term for which a license shall run shall be from the date of filing the application and paying the license fee to and including December 31 of the calendar year in which application for the license is made.

(B) The license fee for any person, partnership, limited liability company, or corporation selling at retail shall be \$10.

(C) Any person, partnership, limited liability company, or corporation selling annually in the aggregate more than 150,000 cigars, packages of cigarettes, and packages of tobacco in any form, at wholesale, shall pay a license fee of \$100, and if such combined annual sales amount to less than 150,000 cigars, packages of cigarettes, and packages of tobacco, the annual license fee shall be \$15. No wholesaler's license shall be issued in any year on a less basis than \$100 per annum unless the applicant shall file with the application a statement duly sworn to by himself or herself, or if applicant is a partnership, by a member of the firm, or if a limited liability company, by a member or manager of the company, or if a corporation, by an officer or manager thereof, that in the past such wholesaler's combined sales of cigars, packages of cigarettes, and packages of tobacco in every form have not exceeded in the aggregate 150,000 annually and that such sales will not exceed such aggregate amount for the current year for which the license is to issue. Any person swearing falsely in such affidavit shall be guilty of an offense, and such wholesaler's license shall be revoked until the full license fee of \$100 is paid.

(D) If application for license is made after July 1 of any calendar year, the fee shall be ½ of the fee provided in this section.

(Neb. RS 28-1423) Penalty, see § 10.99

**§ 112.04 RIGHTS OF LICENSEE.**

(A) The license, provided for in §§ 112.01 and 112.02 when issued, shall authorize the sale of cigars, tobacco, cigarettes, cigarette material, vapor products, or alternative nicotine products by the licensee and employees, to persons over the age of 18 years, at the place of business described in the license for the term therein authorized, unless the license is forfeited as a result of court action as provided in Neb. RS 28-1425.

(Neb. RS 28-1424)

(B) If the license is revoked and forfeited pursuant to Neb. RS 28-1425, all rights under the license shall at once cease and terminate.

(Neb. RS 28-1425)

*Statutory reference:*

*Sale to person under 18 prohibited; penalties, see Neb. RS 28-1425*

**§ 112.05 DISPOSITION OF FEES.**

All money collected as license fees under the provisions of this chapter shall be paid over by the City Clerk to the treasurer of the school fund for the city.

(Neb. RS 28-1426)

**§ 112.06 TRANSFER OF LICENSE.**

In case of the sale of a business where the owner has a license hereunder, the City Clerk may authorize such license to be transferred to the purchaser. In case of a change of location by any licensee hereunder, the City Clerk may transfer such license to the new location.

(Neb. RS 28-1428)

**§ 112.07 REISSUANCE OF REVOKED AND FORFEITED LICENSE.**

In the event that the license of a licensee hereunder shall be revoked and forfeited as provided in Neb. RS 28-1425, no new license shall be issued to such licensee until the expiration of 1 year from the date of such revocation and forfeiture.

(Neb. RS 28-1429)



## CHAPTER 113: SALES AND ADVERTISING

### Section

#### *Peddlers and Solicitors*

- 113.01 Definitions
- 113.02 License required
- 113.03 Application procedure
- 113.04 Standards for issuance
- 113.05 Revocation procedure
- 113.06 Standards for revocation
- 113.07 Appeal procedure
- 113.08 Exhibition of identification
- 113.09 Policy on soliciting
- 113.10 Notice regulating soliciting
- 113.11 Posted notice; solicitors to comply
- 113.12 Prohibited solicitation

#### ***PEDDLERS AND SOLICITORS***

##### **§ 113.01 DEFINITIONS.**

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

***BUSINESS.*** The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

***GOODS.*** Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

***ITINERANT MERCHANT.*** Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the city.

**PEDDLER.** Any person, not an itinerant merchant, who:

(1) Travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(2) Without traveling from place to place, sells or offers goods for sale from any public place within the city.

**SOLICITOR.** Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

### § 113.02 LICENSE REQUIRED.

(A) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the city.

(B) The fee for the license required by this chapter shall be as set from time to time by the city.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof. Penalty, see § 10.99

### § 113.03 APPLICATION PROCEDURE.

(A) All applicants for licenses required by this chapter shall file an application with the City Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;

(c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;

(6) The nature of the advertising proposed to be done for the business;

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description of the applicant;

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application, if required by the city, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under division (C), a statement from a licensed physician, dated not more than 10 days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

Penalty, see § 10.99

#### § 113.04 STANDARDS FOR ISSUANCE.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

- (1) Has been convicted of a crime of moral turpitude; or
- (2) Has made willful misstatements in the application; or
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
- (4) Has committed prior fraudulent acts; or
- (5) Has a record of continual breaches of solicited contracts;

will constitute valid reasons for disapproval of an application.

#### **§ 113.05 REVOCATION PROCEDURE.**

Any license or permit granted under this chapter may be revoked by the City Clerk after notice and hearing, pursuant to the standards in § 113.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least 10 days prior to the date set for the hearing.

#### **§ 113.06 STANDARDS FOR REVOCATION.**

A license granted under this chapter may be revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the license application; or
- (B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
- (C) Any violation of this chapter; or
- (D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- (E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

**§ 113.07 APPEAL PROCEDURE.**

(A) Any person aggrieved by a decision under §§ 113.04 or 113.06 shall have the right to appeal to the City Council. The appeal shall be taken by filing with the City Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The City Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 113.05.

(B) The order of the City Council after the hearing shall be final.

**§ 113.08 EXHIBITION OF IDENTIFICATION.**

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than 1 place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The City Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Penalty, see § 10.99

**§ 113.09 POLICY ON SOLICITING.**

It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

**§ 113.10 NOTICE REGULATING SOLICITING.**

(A) Notice of the refusal of invitation to solicitors, to any residence, shall be given on a weatherproof card, approximately 3 inches by 4 inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

**"NO SOLICITORS INVITED"**

(B) The letters shall be at least 1/3-inch in height.

(C) The card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

**§ 113.11 POSTED NOTICE; SOLICITORS TO COMPLY.**

(A) It shall be the duty of every solicitor upon going onto any premises in the city upon which a residence is located to first examine the notice provided for in § 113.10 if any is attached, and be governed by the statement contained on the notice. If the notice states "NO SOLICITORS INVITED," then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(B) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

Penalty, see § 10.99

**§ 113.12 PROHIBITED SOLICITATION.**

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of § 113.10 above.

Penalty, see § 10.99

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. PROPERTY OFFENSES**

**131. OFFENSES AGAINST PUBLIC ORDER**

**132. OFFENSES AGAINST PUBLIC JUSTICE AND  
ADMINISTRATION**

**133. OFFENSES AGAINST PUBLIC HEALTH AND SAFETY**

**134. OFFENSES AGAINST PUBLIC MORALS**

*Cross-reference:*

*Local legislation regarding these topics, see Title XVII*



## CHAPTER 130: PROPERTY OFFENSES

### Section

- 130.01 Criminal mischief
- 130.02 Criminal trespass
- 130.03 Electrical interference
- 130.04 Injury to trees
- 130.05 Posting

### § 130.01 CRIMINAL MISCHIEF.

(A) A person commits criminal mischief if he or she:

- (1) Damages property of another intentionally or recklessly; or
- (2) Intentionally tampers with property of another so as to endanger person or property; or
- (3) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.

(B) Criminal mischief is an offense:

(1) If the actor intentionally or maliciously causes pecuniary loss of \$500 or more but less than \$1,500; or

(2) If the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than \$500 or if his or her action results in no pecuniary loss.

(Neb. RS 28-519) Penalty, see § 10.99

### § 130.02 CRIMINAL TRESPASS.

(A) A person commits first degree criminal trespass if:

(1) He or she enters or secretly remains in any building or occupied structure, or any separately secured or occupied portion thereof, knowing that he or she is not licensed or privileged to do so; or

(2) He or she enters or remains in or on a public power infrastructure facility knowing that he or she does not have the consent of a person who has the right to give consent to be in or on the facility.

(B) First degree criminal trespass is a Class I misdemeanor.

(C) For purposes of this section, **PUBLIC POWER INFRASTRUCTURE FACILITY** means a power plant, an electrical station or substation, or any other facility which is used by a public power supplier as defined in Neb. RS 70-2103 to support the generation, transmission, or distribution of electricity and which is surrounded by a fence or is otherwise enclosed.  
(Neb. RS 28-520)

(B) (1) A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, to enter or remain in any place as to which notice against trespass is given by:

(a) Actual communication to the actor; or

(b) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

(c) Fencing or other enclosure manifestly designed to exclude intruders, except as otherwise provided in division (A) of this section.

(2) Second degree criminal trespass is a Class III misdemeanor, except as provided for in division (B)(3) of this section.

(3) Second degree criminal trespass is a Class II misdemeanor if the offender defies an order to leave personally communicated to him or her by the owner of the premises or other authorized person.  
(Neb. RS 28-521) Penalty, see § 10.99

### § 130.03 ELECTRICAL INTERFERENCE.

Any person operating, or causing to be operated, any motor, sign, or other electrical apparatus that is connected with the light and power system shall equip the apparatus with proper filtering attachments to eliminate interference, provided that the provisions herein shall not apply to the use of necessary medical equipment or apparatus where electrical interference cannot be reasonably and safely eliminated. Any person who so operates or causes to be operated any such electrical apparatus that interferes habitually with radio and television reception shall be deemed to be guilty of an offense.

Penalty, see § 10.99

**Statutory reference:**

*Provisions on nuisances, see Neb. RS 18-1720 and 28-1321*

### § 130.04 INJURY TO TREES.

It shall be unlawful for any person purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade, or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate

limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the City Council to do so, and the written permit of the City Council in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

Penalty, see § 10.99

**§ 130.05 POSTING.**

It shall be unlawful for any person to use the streets, sidewalks, or public grounds of the city for signs, signposts, or the posting of handbills or advertisements without written permission of the City Council.

Penalty, see § 10.99



## CHAPTER 131: OFFENSES AGAINST PUBLIC ORDER

### Section

- 131.01 Disorderly conduct
- 131.02 Street games
- 131.03 Obstruction of public ways
- 131.04 Obstructing water flow
- 131.05 Disturbing the peace

### § 131.01 DISORDERLY CONDUCT.

It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the city by clamor or noise, intoxication, drunkenness, fighting, or using obscene or profane language in the streets or other public places or otherwise violating the public peace by indecent or disorderly conduct or lewd or lascivious behavior.

Penalty, see § 10.99

*Statutory reference:*

*Authority to prevent disorderly conduct, see Neb. RS 17-129*

*Authority to regulate noise, riots, and routs, see Neb. RS 17-556*

### § 131.02 STREET GAMES.

It shall be unlawful for any person to play catch, bat a ball, or kick or throw a football, or to engage in any exercise or sport, upon the city streets and sidewalks. Nothing herein shall be construed to prohibit or prevent the City Council from ordering from time to time certain streets and public places blocked off for the purpose of providing a safe area to engage in such exercise and sport.

Penalty, see § 10.99

*Statutory reference:*

*Additional authority, see Neb. RS 17-555 and 17-557*

*Authority to regulate excavation and obstruction of streets, see Neb. RS 17-142*

**§ 131.03 OBSTRUCTION OF PUBLIC WAYS.**

It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to or inconsistent with the public use of the same.

Penalty, see § 10.99

*Statutory reference:*

*Additional authority, see Neb. RS 17-555 and 17-557*

*Authority to regulate excavation and obstruction of streets, see Neb. RS 17-142*

*Penalties for injuring or obstructing roads, see Neb. RS 39-301 and 39-302*

**§ 131.04 OBSTRUCTING WATER FLOW.**

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

Penalty, see § 10.99

*Statutory reference:*

*Authority to abate nuisances, see Neb. RS 17-555*

*Authority to prevent water obstruction, see Neb. RS 17-920*

**§ 131.05 DISTURBING THE PEACE.**

It shall be unlawful for any person intentionally to disturb the peace and quiet of any person, family, or neighborhood.

(Neb. RS 28-1322) Penalty, see § 10.99

## CHAPTER 132: OFFENSES AGAINST PUBLIC JUSTICE AND ADMINISTRATION

### Section

- 132.01 Impersonating a public servant
- 132.02 Impersonating a peace officer
- 132.03 Refusing to aid a peace officer
- 132.04 Resisting arrest without the use of a deadly or dangerous weapon
- 132.05 Obstructing a peace officer
- 132.06 Interfering with firefighter
- 132.07 False reporting

### § 132.01 IMPERSONATING A PUBLIC SERVANT.

It shall be unlawful for any person falsely to pretend to be a public servant other than a peace officer and perform any act in that pretended capacity. It is no defense that the office the actor pretended to hold did not in fact exist.

(Neb. RS 28-609) Penalty, see § 10.99

### § 132.02 IMPERSONATING A PEACE OFFICER.

It shall be unlawful for any person to falsely pretend to be a peace officer and perform any act in that pretended capacity.

(Neb. RS 28-610) Penalty, see § 10.99

### § 132.03 REFUSING TO AID A PEACE OFFICER.

It shall be unlawful for any person, upon a request by a person known to him or her to be a peace officer, unreasonably to refuse or fail to aid the peace officer in:

(A) Apprehending any person charged with or convicted of any offense against any of the laws of this state or city; or

(B) Securing the offender when apprehended; or

(C) Conveying the offender to the jail of the county or this city.  
(Neb. RS 28-903) Penalty, see § 10.99

**§ 132.04 RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON.**

(A) It shall be unlawful for any person, without the use of a deadly or dangerous weapon, while intentionally preventing or attempting to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another, to:

(1) Use or threaten to use physical force or violence against the peace officer or another;

(2) Use any other means which creates a substantial risk of causing physical injury to the peace officer or another; or

(3) Employ means requiring substantial force to overcome resistance to effecting the arrest.

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

(Neb. RS 28-904) Penalty, see § 10.99

**§ 132.05 OBSTRUCTING A PEACE OFFICER.**

(A) A person commits the offense of obstructing a peace officer when, by using or threatening to use violence, force, physical interference, or obstacle, he or she intentionally obstructs, impairs, or hinders:

(1) The enforcement of the penal law or the preservation of the peace by a peace officer or judge acting under color of his or her official authority; or

(2) A police animal assisting a peace officer acting pursuant to the peace officer's official authority.

(B) For purposes of this section, **POLICE ANIMAL** means a horse or dog owned or controlled by the state or any county, city, or village for the purpose of assisting a peace officer acting pursuant to his or her official authority.

(Neb. RS 28-906) Penalty, see § 10.99

**§ 132.06 INTERFERING WITH FIREFIGHTER.**

A person commits the offense of interfering with a firefighter if at any time and place where any firefighter is discharging or attempting to discharge any official duties, the person willfully:

(A) Resists or interferes with the lawful efforts of any firefighter in the discharge or attempt to discharge an official duty;

(B) Disobeys the lawful orders given by any firefighter while performing his or her duties;

(C) Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

(D) Forbids or prevents others from assisting or extinguishing a fire, or exhorts another person, as to whom he or she has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Neb. RS 28-908) Penalty, see § 10.99

**§ 132.07 FALSE REPORTING.**

(A) It shall be unlawful for any person to:

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

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

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

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

(5) Furnish material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an ongoing investigation and which actually results in causing or impeding the investigation.

(B) A person who violates this section commits the offense of false reporting.  
(Neb. RS 28-907) Penalty, see § 10.99



## CHAPTER 133: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

### Section

#### *General Provisions*

- 133.01 Maintaining a nuisance
- 133.02 Appliances in yard
- 133.03 Putting carcass or filthy substance into well, spring, brook, or stream
- 133.04 Prohibited fences
- 133.05 Littering
- 133.06 Raising or producing stagnant water

#### *Substance Offenses*

- 133.20 Use of tobacco by minors
- 133.21 Sale of tobacco to minors
- 133.22 Misrepresentation by minor to obtain tobacco
- 133.23 Misrepresentation by minor to obtain alcohol
- 133.24 Minors; prohibited acts involving alcoholic liquor
- 133.25 Drinking on public property; open beverage container

#### *Motor Vehicle and Highway Offenses*

- 133.40 Abandoned automobiles
- 133.41 Unlicensed or inoperable vehicles

#### *Weapons Offenses*

- 133.60 Discharge of firearms
- 133.61 Slingshots, air guns, BB guns

**GENERAL PROVISIONS****§ 133.01 MAINTAINING A NUISANCE.**

(A) A person commits the offense of maintaining a nuisance if he or she erects, keeps up or continues, and maintains any nuisance to the injury of any part of the citizens of this city.

(B) The erecting, continuing, using, or maintaining of any building, structure, or other place for the exercise of any trade, employment, manufacture, or other business which, by occasioning noxious exhalations, noisome or offensive smells, becomes injurious and dangerous to the health, comfort, or property of individuals or the public; the obstructing or impeding, without legal authority, of the passage of any navigable river, harbor, or collection of water; or the corrupting or rendering unwholesome or impure of any watercourse, stream, or water; or unlawfully diverting any such watercourse from its natural course or state to the injury or prejudice of others; and the obstructing or encumbering by fences, building, structures or otherwise of any of the public highways or streets or alleys of the city, shall be deemed nuisances.

(C) A person guilty of erecting, continuing, using, maintaining, or causing any such nuisance shall be guilty of a violation of this section and in every such case the offense shall be construed and held to have been committed in any county whose inhabitants are or have been injured or aggrieved thereby.

(D) The court, in case of conviction of such offense, shall order every such nuisance to be abated or removed.

(Neb. RS 28-1321) Penalty, see § 10.99

**§ 133.02 APPLIANCES IN YARD.**

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless the person first removes all doors and makes the same reasonably safe.

Penalty, see § 10.99

***Statutory reference:***

*Authority to prohibit nuisances within zoning jurisdiction, see Neb. RS 18-1720*

**§ 133.03 PUTTING CARCASS OR FILTHY SUBSTANCE INTO WELL, SPRING, BROOK, OR STREAM.**

Whoever shall put any dead animal, carcass or part thereof, or other filthy substance into any well, or into any spring, brook, or branch of running water, of which use is made for domestic purposes, shall be guilty of an offense.

(Neb. RS 28-1304) Penalty, see § 10.99

**§ 133.04 PROHIBITED FENCES.**

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

Penalty, see § 10.99

*Statutory reference:*

*Restrictions on barbed wire fences, see Neb. RS 39-307*

**§ 133.05 LITTERING.**

(A) Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

(1) The property is an area designated by law for the disposal of that type of material and the person is authorized by the proper public authority to so use the property; or

(2) The litter is placed in a receptacle or container installed on the property for that purpose.

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

**LITTER.** Includes all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state, but does not include wastes of primary processes of farming or manufacturing.

**WASTE MATERIAL.** Any material appearing in a place or in a context not associated with that material's function or origin.

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

(Neb. RS 28-523) Penalty, see § 10.99

**§ 133.06 RAISING OR PRODUCING STAGNANT WATER.**

Whoever shall build, erect, continue, or keep up any dam or other obstruction in any river or stream of water in the city and thereby raise an artificial pond, or produce stagnant waters, which shall be manifestly injurious to the public health and safety shall be guilty of an offense and the court shall, moreover, order every such nuisance to be abated or removed.

(Neb. RS 28-1303) Penalty, see § 10.99

***SUBSTANCE OFFENSES*****§ 133.20 USE OF TOBACCO BY MINORS.**

Whoever, being a minor under the age of 18, years shall smoke cigarettes or cigars, use vapor products or alternative nicotine products, or use tobacco in any form whatever in this city, shall be guilty of an offense. Any minor charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, vapor products, alternative nicotine products, or tobacco.  
(Neb. RS 28-1418) Penalty, see § 10.99

**§ 133.21 SALE OF TOBACCO TO MINORS.**

Whoever shall sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes or cigarette paper, vapor products, or alternative nicotine products, to any minor under 18 years of age is guilty of an offense.  
(Neb. RS 28-1419) Penalty, see § 10.99

**§ 133.22 MISREPRESENTATION BY MINOR TO OBTAIN TOBACCO.**

Any person under the age of 18 years who shall obtain cigars, tobacco, cigarettes, or cigarette material, vapor products, or alternative nicotine products from a licensee hereunder by representing that he or she is of the age of 18 years or over, is guilty of an offense.  
(Neb. RS 28-1427) Penalty, see § 10.99

**§ 133.23 MISREPRESENTATION BY MINOR TO OBTAIN ALCOHOL.**

No minor, as defined by Neb. RS 53-103.23, shall obtain, or attempt to obtain, alcoholic liquor by misrepresentation of age, or by any other method, in any tavern or other place where alcoholic liquor is sold.

(Neb. RS 53-180.01) Penalty, see § 10.99

***Statutory reference:***

*Penalty for manufacturing false identification intended for minors, see Neb. RS 53-180.05*

**§ 133.24 MINORS; PROHIBITED ACTS INVOLVING ALCOHOLIC LIQUOR.**

(A) For purposes of this section, the definitions found in Neb. RS 53-103.01 through 53-103.42 shall apply, including, but not limited to, the definitions of the terms “alcoholic liquor,” “consume,” “minor,” “sale,” and “to sell.”

(B) Except as otherwise provided in § 111.20, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the state or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the state or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence.

(C) It shall be unlawful for any person under 21 years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle.

(Neb. RS 53-180.02) Penalty, see § 10.99

*Statutory reference:*

*Minor Alcoholic Liquor Liability Act, see Neb. RS 53-401 through 53-409*

### § 133.25 DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.

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

#### ***ALCOHOLIC BEVERAGE.***

(a) Beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description, containing 0.5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than 0.5% alcohol by volume; or

(c) Distilled spirits, which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

(d) ***ALCOHOLIC BEVERAGE*** does not include trace amounts not readily consumable as a beverage.

***HIGHWAY.*** A road or street including the entire area within the right-of-way.

***LIMOUSINE.*** A luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least 5 and no more than 14 persons behind the driver with a physical partition separating the driver seat from the passenger compartment. ***LIMOUSINE*** does not include taxicabs, hotel or airport buses or shuttles, or buses.

***OPEN ALCOHOLIC BEVERAGE CONTAINER.*** Except as provided in Neb. RS 53-123.04(3) and 53-123.11(1)(c), any bottle, can, or other receptacle:

- (a) That contains any amount of alcoholic beverage; and
- (b) (i) That is open or has a broken seal; or
  - (ii) The contents of which are partially removed.

**PASSENGER AREA.** The area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in the area. **PASSENGER AREA** does not include the area behind the last upright seat of the motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(B) Except as otherwise provided in this section, it is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this city.

(C) Except as provided in § 111.03 or division (D) of this section, it is unlawful for any person to consume an alcoholic beverage:

- (1) In a public parking area or on any highway in this city; or
- (2) Inside a motor vehicle while in a public parking area or on any highway in this city.

(D) This section does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the state Public Service Commission and subject to Neb. Admin. Code, Chapter 75, Article 3. Such passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while such limousine or bus is in a public parking area or on any highway in this city if:

- (1) The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and
  - (2) Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area.
- (Neb. RS 60-6,211.08)  
Penalty, see § 10.99

### ***MOTOR VEHICLE AND HIGHWAY OFFENSES***

#### **§ 133.40 ABANDONED AUTOMOBILES.**

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

***ABANDONED VEHICLE.***

(a) A motor vehicle is an ***ABANDONED VEHICLE***:

(i) If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than 6 hours on any public property;

(ii) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(iii) If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(iv) If left unattended for more than 7 days on private property if left initially without permission of the owner, or after permission of the owner is terminated;

(v) If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section; or

(vi) If removed from private property by the city pursuant to a city ordinance or this code.

(b) An all-terrain vehicle or minibike is an ***ABANDONED VEHICLE***:

(i) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(ii) If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(iii) If left unattended for more than 7 days on private property if left initially without permission of the owner, or after permission of the owner is terminated;

(iv) If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section; or

(vi) If removed from private property by the city pursuant to a city ordinance or this code.

(c) A ***MOBILE HOME*** is an abandoned vehicle if left in place on private property for more than 30 days after a local governmental unit, pursuant to an ordinance or resolution, has sent a certified letter to each of the last-registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in Neb. RS 60-1903.

(d) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an **ABANDONED VEHICLE** under this section.

**MOBILE HOME.** A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in Neb. RS 71-4603. **MOBILE HOME** does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to Neb. RS 60-169.

**PRIVATE PROPERTY.** Any privately owned property which is not included within the definition of public property.

**PUBLIC PROPERTY.** Any public right-of-way, street, highway, alley, or park or other state, county, or city-owned property.  
(Neb. RS 60-1901)

(B) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit stickers issued pursuant to Neb. RS 60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250 or less, title shall immediately vest in the city. Any certificate of title issued under this division to the city shall be issued at no cost to the city.  
(Neb. RS 60-1902)

(C) (1) Except for vehicles governed by division (B) of this section, the city shall make an inquiry concerning the last-registered owner of such vehicle as follows:

(a) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or

(b) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(2) The city shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

(a) It will be sold or will be offered at public auction after 5 days from the date such notice was mailed; or

(b) Title will vest in the city 30 days after the date such notice was mailed.

(3) If the agency described in division (C)(1)(a) or (b) of this section also notifies the city that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

(4) Title to an abandoned vehicle, if unclaimed, shall vest in the city:

(a) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (C)(2)(a) of this section;

(b) Thirty days after the date the notice is mailed if the city will retain the vehicle; or

(c) If the last-registered owner cannot be ascertained, when notice of such fact is received.

(5) After title to the abandoned vehicle vests pursuant to division (C)(4) of this section, the city may retain for use, sell, or auction the abandoned vehicle. If the city has determined that the vehicle should be retained for use, the city shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the city intends to retain the abandoned vehicle for its use and that title will vest in the city 30 days after the publication.

(Neb. RS 60-1903)

(D) (1) If a city law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.

(2) This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

(Neb. RS 60-1903.01)

(E) If a state agency caused an abandoned vehicle described in division (A)(a)(5) or (A)(b)(4) of this section to be removed from public property in this city, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section to be removed from public property in this city, the state agency shall deliver the vehicle to the city which shall have custody.

(Neb. RS 60-1904)

(F) Any proceeds from the sale of an abandoned vehicle in the city's custody less any expenses incurred by the city shall be held by the city without interest, for the benefit of the owner or lienholders of such vehicle for a period of 2 years. If not claimed within such 2-year period, the proceeds shall be paid into the general fund of the city.

(Neb. RS 60-1905)

(G) Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the city, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the city or its contractual agent or as a result of any subsequent disposition.

(Neb. RS 60-1906)

(H) No person shall cause any vehicle to be an abandoned vehicle as described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section.

(Neb. RS 60-1907)

(I) No person other than one authorized by the city or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned. Anyone violating this division shall be guilty of an offense.

(Neb. RS 60-1908)

(J) The last-registered owner of an abandoned vehicle shall be liable to the city for the costs of removal and storage of such vehicle.

(Neb. RS 60-1909)

(K) Any person violating the provisions of this section shall be guilty of an offense.  
(Neb. RS 60-1911) Penalty, see § 10.99

*Statutory reference:*

*Motor Vehicle Registration Act, see Neb. RS 60-301*

#### § 133.41 UNLICENSED OR INOPERABLE VEHICLES.

(A) No person in charge or control of any property within the city, other than city property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on that property longer than 30 days.

(B) No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time, provided that this section shall not apply to the following:

(1) A vehicle bearing a valid "In Transit" sticker;

(2) A vehicle in an enclosed building;

(3) A vehicle on the premises of a business enterprise operated in a lawful place and manner when the vehicle is necessary to the lawful operation of the business; or

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

(C) Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of an offense.

Penalty, see § 10.99

*Statutory reference:*

*“In Transit” stickers, see Neb. RS 60-376*

### **WEAPONS OFFENSES**

#### **§ 133.60 DISCHARGE OF FIREARMS.**

It shall be unlawful for any person, except an officer of the law in the discharge of official duty, to fire or discharge any gun, pistol, or other fowling piece within the city, except that nothing in this section shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council.

Penalty, see § 10.99

*Statutory reference:*

*Authority to regulate, see Neb. RS 17-556*

#### **§ 133.61 SLINGSHOTS, AIR GUNS, BB GUNS.**

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the city.

Penalty, see § 10.99



## CHAPTER 134: OFFENSES AGAINST PUBLIC MORALS

### Section

- 134.01 Prostitution
- 134.02 Public indecency
- 134.03 Gambling

### § 134.01 PROSTITUTION.

(A) Except as provided in division (C) of this section, any person who performs, offers, or agrees to perform any act of sexual contact or sexual penetration, as those terms are defined in Neb. RS 28-318, with any person not his or her spouse, in exchange for money or other thing of value, commits the offense of prostitution.

(B) It is an affirmative defense to prosecution under this section that such person was a trafficking victim as defined in Neb. RS 28-830.

(C) If the law enforcement officer determines, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of division (A) of this section is a person under 18 years of age, such person shall be immune from prosecution for a prostitution offense under this section and shall be subject to temporary custody under Neb. RS 43-248 and further disposition under the Nebraska Juvenile Code. A law enforcement officer who takes a person under 18 years of age into custody under this section shall immediately report an allegation of a violation of Neb. RS 28-831 to the Department of Health and Human Services which shall commence an investigation within 24 hours under the Child Protection and Family Safety Act.

(Neb. RS 28-801) Penalty, see § 10.99

### § 134.02 PUBLIC INDECENCY.

A person, 18 years of age or over, commits the offense of public indecency if such person performs or procures, or assists any other person to perform, in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

(A) An act of sexual penetration as defined in Neb. RS 28-318;

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

(C) A lewd fondling or caressing of the body of another person of the same or opposite sex. (Neb. RS 28-806) Penalty, see § 10.99

**§ 134.03 GAMBLING.**

(A) For the purpose of this section, the definitions found in Neb. RS 28-1101 shall be used.

(B) A person commits the offense of promoting gambling if he or she knowingly:

(1) Advances or profits from any unlawful gambling activity by:

(a) Engaging in bookmaking;

(b) Receiving, in connection with any unlawful gambling scheme or enterprise, any amount of money played in the scheme or enterprise in any 1 day; or

(c) Betting something of value in an amount of \$300 or more with 1 or more persons in 1 day; or  
(Neb. RS 28-1102 and 28-1103)

(2) Participates in unlawful gambling as a player by betting less than \$300 in any one day.  
(Neb. RS 28-1104)

(C) (1) A person commits the offense of possession of a gambling device if he or she manufactures, sells, transports, places, possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody, or use of any gambling device, knowing that it shall be used in the advancement of unlawful gambling activity.

(2) This division shall not apply to any coin-operated mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding free games, which is intended to be played and is in fact played for amusement only, and which may allow the player the right to replay such gaming device at no additional cost, which right to replay shall not be considered money or property, except that such mechanical game:

(a) Can be discharged of accumulated free replays only by reactivating the game for one additional play for each accumulated free replay; and

(b) Makes no permanent record directly or indirectly of free replays so awarded.

(3) Notwithstanding any other provisions of this division, any mechanical game or device classified by the federal government as an illegal gambling device and requiring a federal Gambling Device Tax Stamp as required by the Internal Revenue Service in its administration of 26 U.S.C. 4461

and 4462, amended July 1, 1965, by Public Law 89-44, are hereby declared to be illegal and excluded from the exemption granted in this division.

(Neb. RS 28-1107)

(D) In any prosecution under this section, it shall be an affirmative defense that the writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the advancement of an unlawful gambling activity.

(Neb. RS 28-1108)

(E) Proof of possession of any gambling device shall be prima facie evidence of possession thereof with knowledge of its contents and character.

(Neb. RS 28-1109)

(F) It shall be no defense to a prosecution under any provision of this section relating to gambling that the gambling is conducted outside this city and is not in violation of the laws of the jurisdiction in which it is conducted.

(Neb. RS 28-1110)

(G) Any gambling device or gambling record possessed in violation of any provision of this section, or any money used as a bet or stake in gambling activity in violation of any provision of this section, shall be forfeited to the state.

(Neb. RS 28-1111)

(H) In any prosecution for an offense defined in this section, when the defendant's status as a player constitutes an excusing condition, the fact that the defendant was a player shall constitute an affirmative defense.

(Neb. RS 28-1112)

(I) Nothing in this section shall be construed to:

(1) Apply to or prohibit wagering on the results of horseraces by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horserace meetings; or

(2) Prohibit or punish the conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or Neb. RS 9-701.

(Neb. RS 28-1113)

(J) In any prosecution under this section in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine, or other periodically printed publication of general circulation shall be admissible in evidence and shall constitute prima facie evidence of the occurrence of the event.

(Neb. RS 28-1117) Penalty, see § 10.99



**TITLE XV: LAND USAGE**

Chapter

**150. BUILDING REGULATIONS**

***Cross-reference:***

*Local legislation regarding these topics, see Title XVII*



## CHAPTER 150: BUILDING REGULATIONS

### Section

#### *Building Permits and Regulations*

- 150.01 Requirement
- 150.02 Limitation
- 150.03 Duplicate to County Assessor
- 150.04 Excavations and exposures; barricades and lights

#### *Moving of Buildings*

- 150.20 Regulations
- 150.21 Deposit

#### *Unsafe Buildings*

- 150.35 Definition
- 150.36 Prohibitions
- 150.37 Determination; notice
- 150.38 Appeal; demolition; duty to inform county
- 150.39 Emergency
- 150.40 Special assessments

#### *Building Inspector*

- 150.55 Power and authority
- 150.56 Right of entry
- 150.57 Permit cards
- 150.58 Time of inspection
- 150.59 Appeal from decision

***BUILDING PERMITS AND REGULATIONS*****§ 150.01 REQUIREMENT.**

Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish, or relocate any building or dwelling, or cause the same to be done, shall file with the City Clerk an application for a building permit. The application shall be in writing on a form to be furnished by the City Clerk for that purpose. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon. The application, plans, and specifications so filed with the City Clerk shall be checked and examined by the City Council, and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the City Council shall authorize the City Clerk to issue the applicant a permit upon payment of a permit fee set by the Council by resolution. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern.

Penalty, see § 10.99

**§ 150.02 LIMITATION.**

If the work for which a permit has been issued shall not have begun within 6 months of the date thereof, or if the construction is discontinued for a period of 6 months, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit.

Penalty, see § 10.99

**§ 150.03 DUPLICATE TO COUNTY ASSESSOR.**

Whenever a building permit is issued for the erection, alteration, or repair of any building within the city's jurisdiction, if the improvement is \$2,500 or more, a duplicate of the permit shall be issued to the County Assessor.

(Neb. RS 18-1743)

**§ 150.04 EXCAVATIONS AND EXPOSURES; BARRICADES AND LIGHTS.**

Any owner, tenant, or lessee causing the construction, demolition, or moving of any building or improvement within the city shall protect all excavations, exposures, open basements, building materials, and debris by suitable barricades or guards by day and by warning lights at night. The failure, neglect, or refusal of the owner, tenant, or lessee to erect and maintain such protections shall constitute a violation of this section, and the Building Inspector or other city law enforcement authority may stop all

work upon the buildings and improvements until suitable protections are erected and maintained in the required manner.

Penalty, see § 10.99

***MOVING OF BUILDINGS***

**§ 150.20 REGULATIONS.**

(A) It shall be unlawful for any person, firm, or corporation to move any building or structure within the city without a written permit to do so. Application may be made to the City Clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the City Council may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the building is presently located.

(B) The City Clerk shall refer the application to the City Council or its designee for approval of the proposed route over which the building is to be moved. Upon approval, the City Clerk shall issue the permit, provided that a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the City Council and conditioned upon moving the building without doing damage to any private or city property is filed with the City Clerk prior to the granting of any permit.

(C) No moving permit shall be required to move a building that is 10 feet wide or less, and 20 feet long or less, and when in a position to move, 15 feet high or less.

(D) In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using, or operating the poles, wires, or line shall, upon proper notice of at least 24 hours, be present and assist by disconnecting the poles, wires, or line relative to the building moving operation. All expense of the disconnection, removal, or related work shall be paid in advance by the licensee unless the disconnection or work is furnished on different terms as provided in the company's franchise.

(E) Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the city, notice in writing of the time and route of the building moving operation shall be given to the various officials in charge of the city utility departments, who shall proceed in behalf of the city and at the expense of the mover to make such disconnections and do such work as is necessary.

Penalty, see § 10.99

***Statutory reference:***

*Authority to regulate moving of buildings, see Neb. RS 17-142*

**§ 150.21 DEPOSIT.**

At such time as the building moving has been completed, the Building Inspector or other designated official shall inspect the premises and report to the City Clerk as to the extent of damages, if any, resulting from the relocation and whether any city laws have been violated during the operation. Upon a satisfactory report from the Building Inspector or other designated official, the City Clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the City Council may apply the money deposited for the purpose of defraying the expense of correcting the conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by the City Council, the City Council may recover the excess expense by civil suit or otherwise as prescribed by law.

***UNSAFE BUILDINGS*****§ 150.35 DEFINITION.**

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

***UNSAFE BUILDING.*** Includes any building, shed, fence, or other human-made structure:

(a) Which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures;

(b) Which because of faulty construction, age, lack of proper repair, or any other cause is especially liable to fire and constitutes or creates a fire hazard; or

(c) Which by reason of faulty construction or any other cause is liable to cause injury or damage by the collapse or fall of all or any part of the structure.

(B) Any such unsafe building in the city is hereby declared to be a nuisance.  
Penalty, see § 10.99

**§ 150.36 PROHIBITIONS.**

It shall be unlawful to maintain or permit the existence of any unsafe building in the city, and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same

to remain in an unsafe condition or to occupy the building or permit it to be occupied while it is in an unsafe condition.

Penalty, see § 10.99

*Statutory reference:*

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

**§ 150.37 DETERMINATION; NOTICE.**

(A) (1) Whenever the City Council or its designee has made a determination that a building or other structure in the city is an unsafe building, it shall be the duty of the City Clerk to post the property accordingly and to file a copy of such determination or resolution in the office of the County Register of Deeds to be recorded.

(Neb. RS 18-1722.01)

(2) The Clerk shall also serve written notice upon the owner and any occupant of the building or other structure by certified mail or personal service.

(B) This notice shall state that the building has been declared to be in an unsafe condition, that the dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it, and that the condition must be remedied within 60 days from the date of receipt. The notice may be in the following terms:

“To \_\_\_\_\_ (owner-occupant of premises), of the premises known and described as \_\_\_\_\_.

“You are hereby notified that \_\_\_\_\_ (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by \_\_\_\_\_. The causes for this decision are \_\_\_\_\_ (here insert the facts as to the dangerous condition).

“You must remedy this condition or demolish the building within 60 days from the date of receipt of this notice or the city will proceed to do so. Appeal of this determination may be made to the City Council, acting as the Board of Appeals, by filing with the City Clerk within 10 days from the date of receipt of this notice a request for a hearing.”

(C) If the person receiving the notice has not complied within 60 days from the date of receipt of the notice, or taken an appeal from the determination that a dangerous building exists within 10 days from the time when this notice is served upon that person by personal service or certified mail, the Building Inspector or other designated official may, upon orders of the City Council, proceed to remedy the condition or demolish the unsafe building.

**§ 150.38 APPEAL; DEMOLITION; DUTY TO INFORM COUNTY.**

(A) Upon receiving the notice to repair or demolish the building, the owner of the building, within the time stipulated, may in writing to the City Clerk request a hearing before the City Council, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished. The City Council shall grant such a hearing within 10 days from the date of receiving the request. A written notice of the City Council's decision following the hearing shall be sent to the property owner by certified mail.

(B) If the City Council rejects the appeal, the owner shall have 60 days from the sending of the decision to begin repair or demolition and removal. If after the 60-day period the owner has not begun work, the City Council shall proceed to cause the work to be done, except that the property owner may appeal the decision to the appropriate court for adjudication, during which proceedings the decision of the City Council shall be stayed.

(C) Any city police officer or member of the City Council shall at once inform the County Treasurer of the removal or demolition of or a levy of attachment upon any item of real property known to him or her.

(Neb. RS 77-1725.01)

**§ 150.39 EMERGENCY.**

Where any unsafe building or structure poses an immediate danger to the health, safety, or general welfare of any person or persons and the owner fails to remedy the situation in a reasonable time after notice to do so, the city may summarily repair or demolish and remove that building or structure.

**§ 150.40 SPECIAL ASSESSMENTS.**

(A) If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of the city to repair, rehabilitate, or demolish and remove a building or structure which is an unsafe building or structure and a public nuisance, the city may proceed with the work specified in the notice to the property owner. A statement of the cost of this work shall be transmitted to the City Council.

(B) The City Council may:

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

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

(Neb. RS 18-1722)

***BUILDING INSPECTOR***

**§ 150.55 POWER AND AUTHORITY.**

The Building Inspector shall be the city official who shall have the duty of enforcing all city building and housing regulations, if any. He or she shall inspect all buildings repaired, altered, built, or moved in the city as often as necessary to ensure compliance with all city ordinances. He or she shall have the power and authority to order, at the direction of the City Council, all work stopped on any construction, alteration, or relocation which violates any provisions prescribed in any city building and housing regulations. He or she shall, at the direction of the City Council, issue permission to continue any construction, alteration, or relocation when the City Council is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within 1 hour. This written order may be served by any city police officer. In the event that the city has building and housing regulations and the Mayor fails to appoint a Building Inspector, the chief city law enforcement officer shall be the Building Inspector ex officio.

**§ 150.56 RIGHT OF ENTRY.**

It shall be unlawful for any person to refuse to allow the Building Inspector entry into any building or structure where the work of construction, alteration, repair, or relocation is taking place, for the purpose of making official inspections at any reasonable hour.

Penalty, see § 10.99

**§ 150.57 PERMIT CARDS.**

Upon the issuance of a building permit, the Building Inspector shall furnish to the applicant a permit card which shall be a distinctive color and shall contain the nature of the work, the location of the building, the number of the permit, and the date of issuance. The card shall be prominently displayed on the principal frontage of the building site close to or upon the building or structure and shall so remain until the final inspection has been made.

Penalty, see § 10.99

**§ 150.58 TIME OF INSPECTION.**

The Building Inspector, upon notification from the permit holder or his or her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent that the work fails to comply with the requirements of the city code: foundation inspection shall be made after trenches are excavated and the necessary forms erected; frame inspection shall be made after the roof, framing, fire-blocking, and

backing is in place and all pipes, chimneys, and vents are complete; and final inspection shall be made after the building is completed and ready for occupancy. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the Building Inspector.

Penalty, see § 10.99

#### **§ 150.59 APPEAL FROM DECISION.**

In the event it is claimed that the true intent and meaning of any city building or housing regulation has been wrongly interpreted by the Building Inspector, that the time allowed for compliance with any order of the Building Inspector is too short, or that conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by the regulation and by the Building Inspector, the owner, his or her agent, or the occupant may file a notice of appeal within 10 days after the decision or order of the Building Inspector has been made. The City Council shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the Building Inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation is assured and may include conditions not generally specified by the building or housing regulation to achieve that end. A copy of any variance so granted shall be sent to both the Building Inspector and the applicant.

**PARALLEL REFERENCES**

References to Nebraska Revised Statutes



## REFERENCES TO NEBRASKA REVISED STATUTES

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10-606 - 10-612	35.12
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17-720	35.09
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