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CHAPTER II - MISDEMEANORS

ARTICLE I – GENERAL MISDEMEANORS

SECTION 2-101: DRINKING ON STREETS, IN PUBLIC PLACES OR ON
PUBLIC PROPERTY; PERMITS FOR; APPLICATION

1. It shall be unlawful for any person to drink alcoholic liquor of any kind on the streets or alleys or upon property used or owned by the government of the United States, the State of Nebraska, or any governmental subdivision thereof or in theaters, dance halls or in any other place open to or frequented by the public within said city, unless:

- A. Such premises are licensed for such purposes by the State of Nebraska;
- B. A special permit has been granted for the same by the City Council; or,
- C. He or she is in Mill Race Park, where alcoholic liquor shall be allowed in the camping/picnic/fishing area.

2. Upon application for a special permit for the consumption of alcoholic liquor on public streets or other public places, the City Council may permit such consumption on such terms and conditions as it may determine. For such permit to be issued, written application must be made to the city clerk and the same must be acted upon at a special or regular meeting of the City Council. The terms and conditions for issuance of a special permit shall be set forth in the minutes of the meeting at which such application is considered.

(Neb. Rev. Stat. §53-186, 53-1,100) (Am. Ord. No. 1055, 5/6/13)

SECTION 2-102: DISTURBING THE PEACE

It shall be unlawful for any person to disturb the peace and quiet of any person, family, neighborhood or public assembly or to make any loud, boisterous or unusual noise, or to quarrel, curse, swear or use obscene or indecent language.

SECTION 2-103: EXCESSIVE NOISE

It is hereby determined to be unlawful to operate industrial equipment, heavy machinery, jack hammer or other industrial equipment emitting loud noise or to race automobile engines between the hours of 8:00 p.m. and 7:00 a.m., in such a manner so as to disturb the comfort, repose, peace and quiet of residents of the City unless such activity has been approved in advance by the City Council.

SECTION 2-104: 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, using of obscene or profane language in the streets or other public places, or by otherwise indecent or disorderly conduct or lascivious behavior. (Neb. Rev. Stat. §17-129, 17-556)

SECTION 2-105: MALICIOUS DESTRUCTION OF PROPERTY

It shall be unlawful for any person, wantonly or maliciously, in any manner to molest, injure or destroy any property of another in this city. Any such offender shall be liable for all damages which arise from the commission of such unlawful act in addition to a fine as permitted by law.

SECTION 2-106: TRESPASSING

It shall be unlawful for any person to trespass upon any private grounds within the City, or to break, cut or injure any tree, shrub, plant, flower or grass growing thereon, or without the consent of the owner or occupant to enter upon an improved lot or grounds occupied for residence purposes and to loiter about the same. (Neb. Rev. Stat. §28-520, 28-521)

SECTION 2-107: DISTURBING AN ASSEMBLY

It shall be unlawful for any person to disturb, interrupt or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. Any person or persons so disturbing an assembly shall be deemed to be guilty of a misdemeanor and fined in accord with state statute.

SECTION 2-108: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENTS

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle, an arrow from a bow, or other like instruments capable of launching a dangerous projectile therefrom at any time or under any circumstances within the City or within a one-half mile radius of the City where the projectile from the piece could reach the City limits; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the person so discharging the firearm has written permission from the City Council.

SECTION 2-109: WINDOW PEEPING

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

SECTION 2-110: STALKING

Any person who willfully and maliciously harasses another person with the intent to terrify, threaten or intimidate commits the offense of stalking. For purposes of this section, "harass" shall mean to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose, and "course of conduct" shall mean a pattern of conduct composed of a series of acts of following, detaining, restraining the personal liberty of or stalking the person or repetitiously telephoning the person.

SECTION 2-111: GAMBLING PROHIBITED

It shall be unlawful for any person to participate in bingo games, lotteries or games of chance in this city unless authorized and licensed by state law. (Neb. Rev. Stat. §28-1101 through 28-1104)

SECTION 2-112: HOUSE OF PROSTITUTION; DISORDERLY HOUSE; PROHIBITED

It shall be unlawful for any person to keep, operate or maintain or to be an inmate of or visit a house of prostitution or a disorderly house within this city. A house of prostitution shall be construed to mean a house or other place which is kept, used or operated as a place for hire for prostitution purposes. A disorderly house shall be construed to mean any place kept in such a manner as to disturb, annoy or scandalize the public generally or persons within the particular neighborhood, or any place used as a public resort by drunkards, prostitutes or other idle or vicious persons, or any place of public resort where illegal practices are habitually carried on to the corruption of public morals.

SECTION 2-113: INDECENT EXPOSURE OF PERSON; PUBLIC URINATION; INDECENT BOOK, PICTURE, PLAY DESIGN

It shall be unlawful for any person within this city to make an indecent exposure of his or her person (in the case of a male, such indecent exposure would consist of public exhibit of his genitals, and in the case of a female, indecent exposure would be public exposure of her nipples and/or genitals); to urinate or defecate in public view; to commit any indecent or lewd act; or to sell or offer for sale, or to dispense of in any manner any obscene, lewd or indecent book, picture or other publication or thing; to exhibit or perform any indecent, immoral, lewd or obscene play or other representation; or in any public place to write, draw, or make any profane, obscene, indecent or lewd work, sentence, figure or design.

**SECTION 2-114: CARRYING CONCEALED WEAPONS;
DISCHARGING FIREARMS, ETC., PROHIBITED**

It shall be unlawful for any person, except a police officer in the performance of his/her duties, to carry any dangerous weapons concealed on or about his/her person, his/her automobile or elsewhere, or to discharge any firearms, air gun or slingshot loaded with rock or other dangerous missiles, within this city; provided, this section shall not apply to shooting galleries or other private shooting ranges within buildings or other structures approved by the mayor and City Council. (Neb. Rev. Stat. §28-1202)

**SECTION 2-115: RESISTING OR FAILING TO ASSIST
AN OFFICER PROHIBITED**

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

SECTION 2-116: IMPERSONATING OFFICER PROHIBITED

It shall be unlawful for any person in said city, other than a regular policeman or other authorized officer or employee of the City, to wear a badge similar to or resembling the badges prescribed for or furnished the police force or any other officer or employee of the City, or to willfully impersonate, or endeavor to impersonate, any such policeman, officer or employee or seek to exercise authority as such. (Neb. Rev. Stat. §28-610)

SECTION 2-117: OBSTRUCTING OFFICER PROHIBITED

It shall be unlawful for any person to use or threaten to use violence, force, physical interference or obstacle to intentionally obstruct, impair or hinder the enforcement of the penal law or the preservation of the peace by a peace officer or judge acting pursuant to his/her official authority. (Neb. Rev. Stat. §28-906)

SECTION 2-118: LITTERING

1. 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:

- A. Such property is in an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or
- B. The litter is placed in a receptacle or container installed on such property for such purpose.

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

watercraft commits the offense of littering.

3. "Litter" as used in this section shall mean all waste material susceptible to 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.

4. "Waste material" as used in this section shall mean any material appearing in a place or in a context not associated with the material's function or origin.
(Neb. Rev. Stat. §17-123.01, 28-523)

SECTION 2-119: TRASH

It shall be unlawful for any person to willfully, maliciously or negligently place or throw upon the premises of another any filth, garbage, leaves, papers or other matter to the annoyance of the owner or occupant thereon. (Neb. Rev. Stat. §28-523)

SECTION 2-120: APPLIANCES IN YARD

It shall be unlawful for any person to permit any household appliance to be stored in the open on private or public property. (Neb. Rev. Stat. §18-1720)

SECTION 2-121: POSTING

It shall be unlawful for any person, firm or corporation to use the streets, sidewalks or public grounds of the City for signs, signposts, or posting of handbills or advertisements without written permission of the City Council.

SECTION 2-122: 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.

SECTION 2-123: OBSTRUCTING WATER FLOW

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

SECTION 2-124: INJURY TO TREES

It shall be unlawful for any person to purposely or carelessly and without lawful authority cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade or other tree standing or growing on any land belonging to another person or on any public land in the corporate limits of the City. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make application to the City Council to do so and the written permit of the council in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

SECTION 2-125: STREET GAMES

It shall be unlawful for any person to play catch, bat a ball, 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 safe area to engage in such exercise and sport.

SECTION 2-126: SEXUAL PREDATOR; DEFINITIONS

For purposes of the Sexual Predator Residency Restriction Act:

1. "Child care facility" means a facility licensed pursuant to the Child Care Licensing Act;

2. "Political subdivision" means a village, a city, a county, a school district, a public power district, or any other unit of local government;

3. "School" means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed in Neb. Rev. Stat. Chapter 79;

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

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

(Neb. Rev. Stat. §29-4016) (Am. by Ord. No. 1023, 12/7/10)

SECTION 2-127: SEXUAL PREDATOR; RESIDENCY RESTRICTIONS

It is hereby determined unlawful for any sexual predator to reside within 500 feet of a school or child care facility. For the purpose of determining the minimum distance of separation, the distance shall be measured at a straight line from the closest point of the sexual predator's place of residence property line to the property line of the school or child care facility. (Neb. Rev. Stat. §29-4017) (Am. by Ord. No. 1023, 12/7/10)

SECTION 2-128: SEXUAL PREDATOR; EXCEPTIONS

These restrictions shall not apply to any sexual predator who (1) resides in a prison or correctional or treatment facility operated by the state or a political subdivision; (2) established a residence within such minimum distance before July 1, 2006, and has not moved from that residence; or (3) established a residence after July 1, 2006, but a school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (Neb. Rev. Stat. §29-4017) (Am. by Ord. No. 1023, 12/7/10)

ARTICLE II - CURFEW

SECTION 2-201: CURFEW HOURS

It shall be unlawful for any person under the age of 19 years to loiter, idle, wander, stroll, play or be in or upon the public streets, public places and public buildings, places of amusement and entertainment, vacant buildings, vacant lots or otherwise operate any bicycle or other vehicle, in, upon, over or through the streets of other public places of the City between the hours of 1:00 a.m. of any day until the hour of 5:00 a.m. of the same day, unless such person is accompanied by a parent, guardian or other adult person having the legal care and custody of said minor person or unless the minor person is upon an emergency errand or legitimate business, directed by his/her parents, guardian or legal custodian, except as hereinafter provided.

SECTION 2-202: CURFEW HOURS EXTENDED

Nothing herein contained shall prohibit said minor persons from attending special school functions or adult supervised entertainment conducted by any school, church or fraternal organization, which continue beyond the curfew hours as set out in Section 2-201 above. In all such cases the hours herein prohibited shall be extended for those minors attending said special social function or entertainment one hour after the closing of said special function.

SECTION 2-203: VIOLATION; PARENTAL LIABILITY

It shall be unlawful for the parent, guardian or other adult person, having the care and custody of minors under the age of 19 years to allow or permit said minor person to do any of the acts or things prohibited by Section 2-201 or 2-202.

SECTION 2-204: ENFORCEMENT; POLICE AUTHORIZATION

Every member of the police force, while on duty, shall be authorized to detain any such minor willfully violating the provisions of this ordinance, and upon apprehension of said minor shall forthwith notify by telephone or other appropriate means the parents or legal guardians or person in custody of said minor child.

SECTION 2-205: PENALTIES

Any violation of the foregoing provisions of this article shall constitute a misdemeanor and shall be punishable by a warning for the first offense, a fine of \$10.00 for the second offense, and a third and any subsequent violation shall constitute a violation of Section 2-203 and a complaint shall be filed against the parents of said child for violation of such section.

ARTICLE III – DOGS

SECTION 2-301: OWNER DEFINED

Any person who shall harbor or permit any dog to be present for ten days or more in or about his/her house, store or enclosure, or allow to remain to be fed, shall be deemed liable for all penalties herein described. (Neb. Rev. Stat. §54-606, 71-4401)

SECTION 2-302: LICENSING

1. Any person who shall own, keep or harbor a dog over the age of six months within the City shall, within 10 days after acquisition of the said dog, acquire a license for each such dog annually by or before the first day of January of each year. The said tax shall be delinquent from and after January 10th; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to January 1st of any year shall be liable for the payment of the dog tax levied herein; and such tax shall be delinquent if not paid within ten days thereafter. After the ten-day grace period allowed herein, there shall be a penalty of \$5.00 on the licenses subsequently obtained. A license shall be issued by the city clerk upon the payment of a license fee in an amount set by resolution of the City Council, except there shall be no fee for a dog owned by the Holt County Humane Society and kept by a person for foster care of a dog on behalf of the said Humane Society. Such resolution shall be on file at the office of the city clerk. When issued, such license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his/her name and address and the name, breed, color and sex of each dog owned and kept by him/her. A certificate that the dog has had a rabies shot, effective for the ensuing year

of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown.

2. Upon payment of the license fee, the city clerk shall issue to the owner of a dog a license certificate and a metallic tag for each dog licensed. The metallic tag shall be properly attached to the collar or harness of any dog so licensed and shall entitle the owner to keep or harbor the said dog until December 31st following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the city Police Department shall issue a duplicate or new tag for the balance of the year and may charge and collect a fee of \$0.25 for each such duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the city clerk to issue tags of a suitable design that are different in appearance each year. (Neb. Rev. Stat. §17-526, 54-603, 71-4412)

SECTION 2-303: REMOVAL OF TAGS

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

SECTION 2-304: UNLICENSED DOGS

All dogs found running at large upon the streets and public grounds of the City without a license tag affixed as required in this article is hereby declared a public nuisance and shall be impounded by the city police as provided herein.

SECTION 2-305: BARKING AND OFFENSIVE DOGS PROHIBITED

It shall be unlawful for any person to own, keep or harbor any dog which by loud, continued or frequent barking, howling or yelping shall annoy or disturb any neighborhood or person, or which habitually barks or chases pedestrians, bicycles, motor vehicles, or riders of horses while they are on any public sidewalks, streets or alleys in the City; provided, the provisions of this section shall not be constructed to apply to any city dog shelter.

SECTION 2-306: RUNNING AT LARGE

"Running at large" shall mean any dog found off the premises of the owner and not under the control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. It shall be unlawful for any person to suffer or permit any dog to run at large within said city, and every dog found running at large in violation hereof is declared to be a public nuisance and may be picked up by the animal control officer or city police officer. Any person who permits his/her dog to run at large within the confines of the City is hereby deemed to be guilty of a misdemeanor and, upon conviction thereof, shall be fined no more than \$500.00 and shall pay the costs of prosecution. This penalty shall be in addition to any other penalties prescribed by this article, either against the owner or the particular dog.

SECTION 2-307: DANGEROUS DOGS; DEFINITIONS

A. "Animal Control Authority" shall mean the City Council of Atkinson.

B. "Animal control officer" shall mean any individual employed, appointed or authorized by the Animal Control Authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing, control, or seizure and impoundment of animals, and shall include any state or local law enforcement

personnel or other employees whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

C. "Dangerous dog" shall mean any dog that:

1. Has killed or inflicted severe injury on a human being on public or private property; or
2. Has killed a domestic animal while the dog was off the owner's property.

D. A dog shall not be defined as a dangerous dog if any threat or any damage was sustained by a person who, at the time, was committing a willful trespass or any other tort upon the property owner of the dog; nor shall a dog be considered a dangerous dog if the dog was provoked or abused by the party complaining.

E. "Domestic animal" shall mean a cat, a dog or livestock.

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

G. "Severe injury" shall mean any physical injury that results in lacerations requiring multiple sutures or cosmetic surgery, or one or more broken bones, or that creates a potential danger to the life or health of the victim.
(Neb. Rev. Stat. §54-617)

SECTION 2-308: DANGEROUS DOGS; CLASSES OF DOGS PROHIBITED

A. The following dogs are hereby determined to be dangerous dogs and a public nuisance:

1. Doberman;
2. Rottweiler;
3. Wolf-hybrid dogs; and
4. Pit Bull breed (defined as follows):
 - a. American Pit Bull Terrier;
 - b. Staffordshire Bull Terrier and American Staffordshire Bull Terrier;
 - c. American Bulldog;
 - d. Any dog whose sire or dam is a dog of a breed which is defined as a Pit Bull breed of dog in this definition;
 - e. Any dog whose owner registers, defines, admits, or otherwise identifies the dog as being of a Pit Bull breed;
 - f. Any dog conforming or substantially conforming to the breed of American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or American Bull Dog as defined by the American Kennel Club or United Kennel Club.
 - g. Any dog which is of the breed commonly referred to as Pit Bull and commonly recognized and identifiable as such.

B. It is unlawful to keep, shelter, or harbor such breeds of dogs for any purpose within the city limits.

C. If a dispute exists as to whether a dog is of the Pit Bull breed as set forth herein, it shall be the obligation of the owner to obtain, at the owner's cost, a DNA test confirming that the dog is not of the Pit Bull breed as set forth herein.
(Am. Ord. No. 1175, 9/7/21)

SECTION 2-309: DANGEROUS DOGS; FAILURE TO COMPLY

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article, and said officer may enter upon private property in order to confiscate the animal. In lieu of confiscation, the animal control officer may immediately destroy the dangerous dog if it poses a threat of harm to said officer or any other person or property. The owner shall be responsible for the costs incurred by the Animal Control Authority for the care and boarding of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the owner violated this article. (Neb. Rev. Stat. §54-620)

SECTION 2-310: RABIES VACCINATION

Every dog three months of age and older shall be vaccinated against rabies pursuant to Nebraska law. Puppies shall be vaccinated within 30 days after having reached three months of age. Unvaccinated dogs acquired or moved into the City must be vaccinated within 30 days after purchase or arrival, unless under three months of age as specified above. The provisions of this ordinance with respect to vaccination shall not apply to any dogs owned by a person temporarily residing within this city for less than 30 days, any dog brought into this city for show purposes, or any dog brought into this city for hunting purposes for a period of less than 30 days; such dogs shall be kept under the strict supervision of the owner.

SECTION 2-311: RABIES SUSPECTED; IMPOUNDMENT

Any dog or other animal suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions set forth above which has bitten any person or has caused an abrasion of the skin of any person shall be seized by a police officer or animal control officer of this city and shall be impounded under the supervision of a licensed veterinarian or public health authority for not less than ten days. If, upon examination by a veterinarian, the dog or other animal has no clinical signs of rabies at the end of such impoundment, it shall be released to the owner upon said owner paying the costs of said impoundment, or, in the case of a stray, shall be disposed of in whatever manner deemed best by the city police officer. (Neb. Rev. Stat. §71-4406)

SECTION 2-312: RABID DOGS; CAPTURE IMPOSSIBLE

The animal control officer shall have the authority to kill any domestic animals with the characteristics of rabies which make capture impossible because of the danger involved.

SECTION 2-313: RABID DOGS; PROCLAMATION

It shall be the duty of the City Council or mayor whenever, in their opinion, the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping or harboring any dog to muzzle the same, or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation, or until such danger is past. The dogs may be harbored by any good and

sufficient means in a house, garage or yard on the premises wherein the said owner may reside. Upon issuance of the proclamation it shall be the duty of all persons owning, keeping or harboring any dog to confine the same as herein provided.

SECTION 2-314: FIGHTING DOGS

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting, or by any gesture or word to encourage the same to fight. Any person convicted of violating this section shall be fined in any sum not exceeding that permitted by Nebraska law. (Neb. Rev. Stat. §17-526)

SECTION 2-315: KILLING AND POISONING

It shall be unlawful to kill, administer or cause to be administered poison of any sort to any domestic animal within the City, or in any manner to injure, maim, destroy, or in any manner attempt to injure, maim or destroy any domestic animal within the City, or to place any poison or poisoned food where the same is accessible to any domesticated animal; provided, this section shall not apply to the lawful performance of euthanasia administered by a duly licensed veterinarian.

SECTION 2-316: INTERFERENCE WITH POLICE

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

SECTION 2-317: DAMAGES; LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog owned, kept or harbored by him/her, or under his/her charge or control, to injure or destroy any real or personal property of any description belonging to another person.

SECTION 2-318: IMPOUNDING

It shall be the duty of the animal control officer to capture, secure and remove in a humane manner to the designated city animal shelter any animal violating any of the provisions of this article. The animals so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded animal shall be kept and maintained at the pound for a period of not less than three days, unless reclaimed earlier by the owner. No later than 48 hours after the impoundment of any animal, notice of impoundment of all animals, including any significant marks or identification, shall be posted at the office of the city clerk as public notification of such impoundment. Any animal may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the City Council and on file at the office of the city clerk. The owner shall then be required to comply with the rabies vaccination requirements within 72 hours after release. If the animal is not claimed at the end of three days after public notice has been given, the animal control officer may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same; provided, if the animal control officer can find a suitable home for the impounded animal, he/she may turn it over to any person willing to provide the animal with a home. In this event the new owner shall be required to pay all fees and meet all licensing and vaccinating requirements provided in this article. The City shall acquire legal title to any unlicensed animal impounded in the animal shelter after three days. All animals not placed for

adoption shall be destroyed and buried in a humane manner as prescribed by the Board of Health. (Neb. Rev. Stat. §17-548, 71-4408)

SECTION 2-319: ANIMAL SHELTER

The animal shelter shall be safe, suitable and conveniently located for the impounding, keeping and destruction of animals. The said shelter shall be sanitary, ventilated and lighted.

ARTICLE IV - KENNELS

SECTION 2-401: KENNELS; DEFINED

"Kennel" is defined for this article as any lot or parcel of land or place where more than three dogs or more than three cats over the age of 12 weeks are confined, treated, boarded, housed or cared for, and shall include any lot or parcel of land or place where a person, corporation or other entity engages in, conducts, manages or maintains a veterinary business, regardless of the number of animals treated, kept, confined or boarded; provided, however, that this article shall not apply to animal shelters operated by licensed veterinarians nor shall it apply to licensed pet stores.

SECTION 2-402: UNLICENSED KENNELS; NUISANCE

It is hereby declared that it is and shall be a nuisance for any person, corporation, partnership or other entity to maintain, keep, conduct or operate any kennel within the zoning limits of the City without first obtaining a license therefore.

SECTION 2-403: KENNELS; LICENSE REQUIRED

It is unlawful for any person, corporation, partnership or other entity to maintain, keep, conduct or operate any kennel within the zoning limits of the City without first obtaining a license therefore.

SECTION 2-404: KENNEL LICENSE; APPLICATION FOR

Any person or legal entity seeking a kennel license shall make written application to the City Council. Such application shall state in detail the type, number and gender of animals to be held in such kennel, describe the kennel facility in detail and provide such other information as may be required by the City Council. Such application shall also have attached thereto the consent of all property owners or occupants of lands or lots adjoining the land upon which the proposed kennel is to be located. In the event that the City Council determines that such kennel would not constitute a nuisance, it shall issue such license on such terms and conditions as it deems appropriate. Such license shall be on an annual basis and may be revoked after notice and hearing for violation of any term or condition of the issuance of the license. The annual license fee shall be in an amount set from time to time by resolution of the City Council and the license shall not be issued until such fee is paid.

SECTION 2-405: KENNEL REGULATIONS

Every place used as a kennel shall be kept in a clean and sanitary condition and no refuse or waste material shall be allowed to remain thereon for more than 24 hours. All animals shall be humanely treated and any animal having any disease shall be properly isolated and treated.

ARTICLE V - ANIMALS GENERALLY

SECTION 2-501: ANIMALS BANNED FROM CITY

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat or swine, including Chinese pot-bellied pigs, except by written permission of the City Council. Such animals maintained within the corporate limits as of the date of this ordinance may remain so long as the ownership of the property remains in the present owner's name. Once such ownership changes, then written permission of the City Council shall be required to keep or maintain the named animals. (Neb. Rev. Stat. §16-240)

SECTION 2-502: CRUELTY; DEFINITIONS

1. "Abandon" shall mean to leave any animal 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.

2. "Animal" shall mean any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild animal.

3. "Cruelly mistreat" shall mean to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald or otherwise set upon any animal.

4. "Cruelly neglect" shall mean 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.

5. "Humane killing" shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering.

6. "Law enforcement officer" shall mean any member of the Nebraska State Patrol, county or deputy sheriff, any member of the city police force, or any other public official authorized by the City to enforce state or local animal control laws, rules, regulations and/or ordinances.

(Neb. Rev. Stat. §28-1008)

SECTION 2-503: CRUELTY TO ANIMALS

A person commits cruelty to animals if, except as otherwise authorized by law, he/she intentionally or recklessly:

1. Subjects any animal to cruel mistreatment; or
2. Subjects any animal in his/her custody to cruel neglect; or
3. Abandons any animal; or
4. Kills or injures any animal belonging to another.

(Neb. Rev. Stat. §28-1009)

SECTION 2-504: CRUELTY TO ANIMALS; LAW ENFORCEMENT OFFICER; POWERS, IMMUNITY

1. Any 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. Any law enforcement officer who has reason to believe than an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed by law.

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. Rev. Stat. §28-1012)

SECTION 2-505: ENCLOSURES

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

SECTION 2-506: RUNNING AT LARGE

It shall be unlawful for the owner, keeper or harbinger of any animal, or any person having the charge, custody or control thereof, to permit such animal to be ridden, driven or run at large upon any of the public ways or property, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into a public way or to be upon the property of another within the corporate limits of the City; provided, such prohibition shall not apply to horses being ridden on the public ways as long as the person riding such horse shall have reached the age of 12 years or shall be accompanied by a person having reached the age of 21 years, and such horse shall be ridden by such person during the hours between sunrise and sunset. Such permitted use of the public ways by horses shall include the operation of a horse-drawn vehicle subject to the time and age limits herein expressed. The person in charge of the horse being ridden or driven upon public streets, or person having control thereof, shall comply with all traffic regulations in effect concerning the use of city streets, and shall at all times ride or drive said animal single file next to the curb on the traveled portion of the street in the permitted direction of traffic. (Neb. Rev. Stat. §16-235)

SECTION 2-507: FOWL; RUNNING AT LARGE

It shall be unlawful for any person to allow poultry, chickens, turkeys, geese or any other fowls to run at large within the corporate limits, except in enclosed places on private property. (Neb. Rev. Stat. §16-235)

SECTION 2-508: WILD ANIMALS

No person shall keep or permit to be kept on his/her property any wild animals except such animals kept for exhibition purposes by circuses and educational institutions.

ARTICLE IV - WEEDS, JUNK CARS, LITTER AND DANGEROUS BUILDINGS REGULATIONS

SECTION 2-601: DEFINITIONS

1. The terms "weeds, grasses or worthless vegetation" shall mean any weed or grass growth of more than 12 inches in height, or 8 inches as described in Section 2-602. Weeds shall include, but not be limited to, bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant and ragweed. (Am. Ord. No. 1011, 12/7/09)

2. The term "litter" shall include, but not be 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; (D) offal and dead animals; (E) any

machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility or serviceability as such through deterioration, dismantling or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded or thrown away or left as waste, wreckage or junk; or (F) any motor vehicle not housed in a storage or other building and not being currently licensed.

3. The term "dangerous building" as used in this article is hereby defined to mean and include: (A) any building, shed, fence or other man-made structure 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 its occupants or those of neighboring structures; (B) any building, shed, fence or other man-made structure 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; (C) any building, shed, fence or other man-made structure which, by reason of faulty construction or any other cause, is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure; or (D) any building, shed, fence or other man-made structure which, because of its condition or because of lack of doors or windows, readily admits birds and animals or is an attraction for children or other persons to enter.

SECTION 2-602: PUBLIC NUISANCE; GRASSES OR WEEDS

It is hereby declared to be a public nuisance to permit grasses or worthless vegetation to grow in excess of 12 inches, or 8 inches in the event that the City has previously acted within the same calendar year to remove such grass in excess of 12 inches on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner or occupier of the property. (Am. Ord. No. 1011, 12/7/09)

SECTION 2-603: PUBLIC NUISANCE; LITTER OR DANGEROUS BUILDING

It is hereby declared to be a public nuisance to permit the accumulation of litter or to maintain a dangerous building on any property within the corporate limits of the City.

SECTION 2-604: ABATEMENT

1. Whenever the City Council, by resolution, determines that any grasses or weeds 12 inches in height, or as otherwise provided in Section 2-602, are growing on property within the City, litter is found on any property, or any building or structure in the City is a dangerous building, notice to abate and remove such nuisance shall be given as follows:

A. To each owner or owner's duly authorized agent by certified mail, which shall be conspicuously marked as to its importance; and

B. To the occupant, if any, by personal service by a city police officer or county sheriff or deputy.

2. 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 the nuisance by filing a written appeal with the office of the city clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the mayor as hearing officer, who 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.

3. 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. 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 benefited 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.

(Neb. Rev. Stat. §17-563)

4. 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 notice on the lot or ground upon which the nuisance is to be abated or removed. Within five days after receipt of such notice of publication or posting, whichever is applicable, 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 and assess the cost of such work against the property involved or recover such costs in a civil action.

(Am. Ord. Nos. 928, 12/6/04; 1063, 12/2/13)

SECTION 2-605: UNLAWFUL ACCUMULATION

1. *Prohibition; Definition.* It is hereby declared unlawful for an occupant of a dwelling to store or otherwise accumulate in or on the dwelling unit objects or substances of a nature or in a quantity reasonably likely to create a hazard to the safety or health of an occupant of another dwelling unit on the same or a contiguous property, even if the objects or substances are not visible from a public place or a public right-of-way. "Dwelling" shall mean an interior space that provides an independent residential facility for one or more individuals, including permanent provisions for living, sleeping, eating, cooking, and sanitation, which is used regularly for such purposes, together with any adjoining exterior space such as a patio, carport, or fenced area that reasonably appears to be part of the same independent facility.

2. *Penalty; Citation.* Unless a different penalty is provided elsewhere in this code, a person violating this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$200.00 nor more than \$500.00. Each day a violation continues shall constitute a separate offense. Upon discovery of a violation of this section, the enforcing official may issue to the violator a criminal citation enforceable in municipal court, provided the violation remains after the enforcing official has issued to the violator a written warning affording a reasonable opportunity to cure the violation.

3. *Authority to Enter; Permission.* For purposes related to the enforcement of this section, authority to enter a dwelling unit includes authority to enter the property on which the dwelling unit is located, but only to the extent necessary to access the dwelling unit against which this section is being enforced. Further, an enforcing official may enter a dwelling unit but only with written or verbal permission from an occupant, unless otherwise provided by this section.

4. *Warrant.* If circumstances exist that would lead a reasonable person to conclude the enforcing official does not have permission to enter a dwelling unit, entry shall be made only under authority of a warrant issued by a magistrate.

- A. In applying for a warrant, the official shall submit to the magistrate an affidavit, which may be based on information supplied by others, describing with reasonable specificity the dwelling unit into which entry is sought, stating facts giving rise to the official's reasonable belief that the dwelling unit is in violation of this section and, to the extent known by the official after

reasonable inquiry, the name and contact information of the occupant(s) of the dwelling unit.

- B. If the magistrate finds that probable cause exists for the enforcing official's entry into the dwelling unit, the magistrate shall issue a warrant authorizing the entry. The warrant shall constitute authority for the official to enter and to inspect the dwelling unit, to gather evidence by reasonable means, including photography and videography, and to procure samples and specimens as reasonably necessary to determine the existence and extent of a violation of this section. It is unlawful for a person to interfere or to refuse compliance with a warrant issued pursuant to this section.

5. *Emergency.* Notwithstanding anything to the contrary in this section, if the enforcing official reasonably believes that a serious and immediate hazard exists in or on a dwelling unit, the official may enter the dwelling unit at any time. In such circumstances the enforcing official:

- A. May be accompanied by other city employees, including officers of the Police Department;
- B. Shall make every reasonable effort to present proper identification to the owner, tenant, or other person who reasonably appears to have a right to occupy or to control the dwelling unit;
- C. Shall remain in or on the dwelling unit only for such time as is reasonably necessary to conduct inspections and to gather evidence required to determine whether a serious and immediate hazard exists; and
- D. As soon as reasonably possible, shall memorialize the circumstances of the official's entry into the dwelling unit. The memorialization may be typed, handwritten, or in electronic form and shall be preserved in the records of the enforcing official.

6. After expiration of the time prescribed in subsection (5)(C) of this section, the official may enter a dwelling unit only under the authority of subsections (3) or (4) of this section.

(Ord. No. 1098, 11/2/15)

SECTION 2-606: REAL ESTATE HARBORING A NUISANCE; PURCHASE PROHIBITED

No person shall be allowed to purchase real estate owned by the City or any political subdivision thereof if said person is currently under investigation for harboring a nuisance as defined by city code or who is currently having a nuisance violation enforced against him/her. Said prohibition from purchasing city real estate shall apply to all persons who have any ownership interest in any corporate or other legal business entity in real estate that is currently under investigation for harboring a nuisance or that is currently having a nuisance ordinance violation enforced against it. (Ord. No. 1088, 9/14/15)

SECTION 2-607: FAILURE TO CORRECT; PENALTY

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance within five days after receiving the notice to correct, he/she shall be guilty of a misdemeanor and fined in a sum of not more than \$500.00. After the expiration of the ten days after the notice to correct was received, each day's violation shall be a separate offense. (Am. Ord. No. 1063, 12/2/13)

ARTICLE VII - PENAL PROVISION

SECTION 2-701: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined per the waiver schedule on file in the office of the City clerk. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. Ord. No. 1060, 1/6/14)